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code of federal regulations

Public Contracts and Property Management

COMPLETED

41

CHAPTER 101

Revised as of July 1, 1981

022-003-94664-1

THE NATIONAL ARCHIVES OF THE UNITED STATES
1934

code of federal regulations

Public Contracts and Property Management

41

CHAPTER 101

Revised as of July 1, 1981

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OF GENERAL APPLICABILITY
AND FUTURE EFFECT

AS OF JULY 1, 1981

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1934

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Table of Contents

Page

Explanation v

Title 41:

Subtitle C—Federal Property Management Regulations System:

Chapter 101—Federal Property Management Regulations.............. 5

Finding Aids:

Material Approved for Incorporation by Reference 831

Table of CFR Titles and Chapters 833

Alphabetical List of Agencies Appearing in the CFR.................... 847

Redesignation Table 855

List of CFR Sections Affected 857

Cite this Code CFR

thus: 41 CFR 101-1.100

Explanation

The Code of Federal Regulations is a codification of the general and permanent rules published in the Federal Register by the Executive departments and agencies of the Federal Government. The Code is divided into 50 titles which represent broad areas subject to Federal regulation. Each title is divided into chapters which usually bear the name of the issuing agency. Each chapter is further subdivided into parts covering specific regulatory areas.

ISSUE DATES

Each volume of the Code is revised at least once each calendar year and issued on a quarterly basis approximately as follows:

Title 1 through Title 16	as of January 1
Title 17 through Title 27	as of April 1
Title 28 through Title 41	as of July 1
Title 42 through Title 50	as of October 1

The appropriate revision date is printed on the cover of each volume.

LEGAL STATUS

The contents of the Federal Register are required to be judicially noticed (44 U.S.C. 1507). The Code of Federal Regulations is prima facie evidence of the text of the original documents (44 U.S.C. 1510).

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The Code of Federal Regulations is kept up to date by the individual issues of the Federal Register. These two publications must be used together to determine the latest version of any given rule.

To determine whether a Code volume has been amended since its revision date (in this case, July 1, 1981), consult the "List of CFR Sections Affected (LSA)," which is issued monthly, and the "Cumulative List of Parts Affected," which appears in the Reader Aids section of the daily Federal Register. These two lists will identify the Federal Register page number of the latest amendment of any given rule.

EFFECTIVE DATES

Each volume of the Code contains amendments published in the Federal Register since the last revision of that volume of the Code. Source citations for the regulations are referred to by volume number and page number of the Federal Register and date of publication. Publication dates and effective dates are usually not the same and care must be exercised by the user in determining the actual effective date. In instances where the effective date is beyond the cut-off date for the Code a note has been inserted to reflect the future effective date.

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Provisions that become obsolete before the revision date stated on the cover of each volume are not carried. Code users may find the text of provisions in effect on a given date in the past by using the appropriate numerical list of sections affected. For the period before January 1, 1973, consult either the List of CFR Sections Affected, 1949-1963, or 1964-1972, published in three separate volumes. For the period beginning January 1, 1973, a "List of CFR Sections Affected" is published at the end of each CFR volume.

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What is incorporation by reference? Incorporation by reference was established by statute and allows Federal agencies to meet the requirement to publish regulations in the Federal Register by referring to materials already published elsewhere. For an incorporation to be valid, the Director of the Federal Register must approve it. The legal effect of incorporation by reference is that the material is treated as if it were published in full in the Federal Register (5 U.S.C. 552(a)). This material, like any other properly issued regulation, has the force of law.

What is a proper incorporation by reference? The Director of the Federal Register will approve an incorporation by reference only when the requirements of 1 CFR Part 51 are met. Some of the elements on which approval is based are:

(a) The incorporation will substantially reduce the volume of material published in the Federal Register.

(b) The matter incorporated is in fact available to the extent necessary to afford fairness and uniformity in the administrative process.

(c) The incorporating document is drafted and submitted for publication in accordance with 1 CFR 51.4.

Properly approved incorporations by reference in this volume are listed in the Finding Aids at the end of this volume.

What if the material incorporated by reference cannot be found? If you have any problem locating or obtaining a copy of material listed in the Finding Aids of this volume as an approved incorporation by reference, please contact the agency that issued the regulation containing that incorporation. If, after contacting the agency, you find the material is not available, please notify the Director of the Federal Register, National Archives and Records Service, Washington DC 20408, or call (202) 523-4534.

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A subject index to the Code of Federal Regulations is contained in a separate volume, revised semiannually as of January 1 and July 1, entitled CFR INDEX AND FINDING AIDS. This volume contains the Parallel Table of Statutory Authorities and Agency Rules (Table I), and Acts Requiring Publication in the Federal Register (Table III). A list of CFR Titles, Chapters, and Parts and an alphabetical list of agencies publishing in the CFR are also included in this volume.

An index to the text of Presidential documents appears at the end of each compilation of Title 3, The President.

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For a summary, legal interpretation, or other explanation of any regulation in this volume, contact the issuing agency. Inquiries concerning editing procedures and reference assistance with respect to the Code of Federal Regulations may be addressed to the Director, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408 (telephone 202-523-3517). Sales are handled exclusively by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

John E. Byrne,
Director,
Office of the Federal Register.

July 1, 1981.

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THIS TITLE

CONTENTS

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT consists of Subtitle A—Federal Procurement Regulations System. Subtitle B—Other Provisions Relating to Public Contracts and Subtitle C—Federal Property Management Regulations System. Subtitle D is reserved for other provisions relating to property management.

The Federal procurement regulations in Chapter 1 of Subtitle A are those government-wide procurement regulations issued by the General Services Administration. In Chapters 2 through 49 of Subtitle A are procurement regulations issued by individual government agencies. The first 49 parts in each of Chapters 2 through 49 are reserved for agency regulations *implementing* the Federal procurement regulations in Chapter 1 and are numerically keyed to them. The remaining parts in Chapters 2 through 49 contain agency regulations *supplementing* the Federal procurement regulations.

Other government-wide procurement regulations relating to public contracts appear in Chapters 50 through 100, Subtitle B.

The Federal property management regulations in Chapter 101 of Subtitle C are government-wide property management regulations issued by the General Services Administration. In the remaining chapters of Subtitle C are the *implementing* and *supplementing* property management regulations issued by individual Government agencies. Those regulations which implement Chapter 101 are numerically keyed to it.

NUMBERING

The numbering system of Title 41 differs from that used for other titles of the *Code of Federal Regulations.* The numbering system is especially designed to permit the keying of agency regulations to government-wide regulations in Subtitles A and C which are issued by the General Services Administration. Chapters are designated by Arabic numerals. Each section number is a combination showing to the left of the decimal point the chapter and part numbers, separated by a dash. To the right of the decimal point the subpart, section, and subsection numbers are indicated in that order. Thus, an agency assigned to Chapter 2, and wishing to implement the cost-plus-a-fixed-fee contract provisions contained in Chapter 1, Part 1-3, Subpart 1-3.4, section 05, subsection 5 of the Federal Procurement Regulations (§ 1-3.405-5), would assign the section number "§ 2-3.405-5" to the implementing provisions.

Where material in the Federal Procurement Regulations (FPR) requires no implementation or deviation, there is no corresponding number in the agency regulations. Thus, there may be gaps in the sequence of numbers where the FPR, as written, are applicable to agency procurement.

ORGANIZATION

Title 41 is composed of thirteen volumes. The chapters in these volumes are arranged as follows: Chapter 1 (1-1 to 1-10), Chapter (1-11 to App.) —2, Chapters 3-6, Chapter 7, Chapter 8, Chapter 9, Chapters 10-17, Chapter 18 (Volumes I, II and III), Chapters 19-100, Chapter 101, and Chapter 102 to end.

For this volume Linda A. Rice-Johnston was Chief Editor. The Code of Federal Regulations publication program is under the direction of Martha B. Girard, assisted by Robert E. Jordan.

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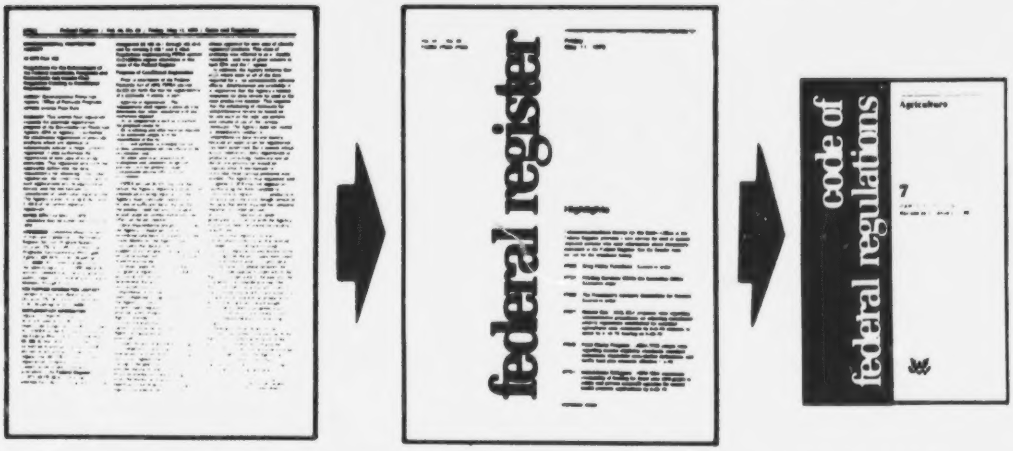

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Title 41—Public Contracts and Property Management

(This book contains Chapter 101)

Part

SUBTITLE C—Federal Property Management Regulations System:

CHAPTER 101—Federal Property Management Regulations. 101-1

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Subtitle C—Federal Property Management Regulations System

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CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER A—GENERAL

Part		*Page*
101-1	Introduction	7
101-2	Payments to GSA for supplies and services furnished Government agencies	9
101-3	Annual real property inventories	15
101-4	Patents	20
101-5	Centralized services in Federal buildings	25
101-6	Miscellaneous regulations	34
101-7	Federal travel regulations	68
101-8	[Reserved]	
Appendix to Subchapter A—Temporary Regulations		69

SUBCHAPTER B—ARCHIVES AND RECORDS

101-9—101-10	[Reserved]	
101-11	Records management	75
101-12	[Reserved]	
101-13	Preservation of records by war contractors	145
Appendix to Subchapter B—Temporary Regulations		148

SUBCHAPTER C—DEFENSE MATERIALS

101-14	National defense stockpile	151
101-15	[Reserved]	

SUBCHAPTER D—PUBLIC BUILDINGS AND SPACE

101-16	[Reserved]	
101-17	Assignment and utilization of space	157
101-18	Acquisition of real property	183
101-19	Construction and alteration of public buildings	207
101-20	Management of buildings and grounds	222
101-21	Federal Buildings Fund	258
Appendix to Subchapter D—Temporary Regulations		264

80-141 O—81——2

SUBCHAPTER E—SUPPLY AND PROCUREMENT

Part		Page
101-22—101-24	[Reserved]	
101-25	General	270
101-26	Procurement sources and programs	292
101-27	Inventory management	339
101-28	Storage and distribution	350
101-29	Federal specifications and standards	355
101-30	Federal catalog system	360
101-31	Inspection and quality control	373
101-32	[Reserved]	
101-33	Public utilities	375
101-34	Emergency preparedness planning	377
Appendix to Subchapter E—Temporary Regulations		379

SUBCHAPTER F—ADP AND TELECOMMUNICATIONS

101-35	ADP and telecommunications management policy.	386
101-36	ADP management	403
101-37	Telecommunications management	462
Appendix to Subchapter F—Temporary Regulations		484

SUBCHAPTER G—TRANSPORTATION AND MOTOR VEHICLES

101-38	Motor equipment management	490
101-39	Interagency motor vehicle pools	515
101-40	Transportation and traffic management	530
101-41	Transportation documentation and audit	562
Appendix to Subchapter G—Temporary Regulations		611

SUBCHAPTER H—UTILIZATION AND DISPOSAL

101-42	Property rehabilitation services and facilities	613
101-43	Utilization of personal property	619
101-44	Donation of personal property	655
101-45	Sale, abandonment, or destruction of personal property	702
101-46	Utilization and disposal of personal property pursuant to exchange/sale authority	750
101-47	Utilization and disposal of real property	756
101-48	Utilization, donation, or disposal of abandoned and forfeited personal property	811
101-49	Utilization, donation, and disposal of foreign gifts and decorations	820
Appendix to Subchapter H—Temporary Regulations		827

SUBCHAPTER A—GENERAL

PART 101-1—INTRODUCTION

Subpart 101-1.1—Regulation System

Sec.

101-1.100 Scope of subpart.
101-1.101 Federal Property Management Regulations System.
101-1.102 Federal Property Management Regulations.
101-1.103 FPMR temporary regulations.
101-1.104 Publication and distribution of FPMR.
101-1.104-1 Publication.
101-1.104-2 Distribution.
101-1.105 Authority for FPMR System.
101-1.106 Applicability of FPMR.
101-1.107 Agency consultation regarding FPMR.
101-1.108 Agency implementation and supplementation of FPMR.
101-1.109 Numbering in FPMR System.
101-1.110 Deviation.
101-1.111 Retention of FPMR amendments.
101-1.112 Change lines.

Subparts 101-1.2—101-1.48 [Reserved]

Subpart 101-1.49—Illustrations of Forms

101-1.4900 Scope of subpart.
101-1.4901 Standard forms. [Reserved]
101-1.4902 GSA forms.
101-1.4902-2053 GSA Form 2053, Agency Consolidated Requirements for GSA Regulations and Other External Issuances.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

SOURCE: 29 FR 13255, Sept. 24, 1964, unless otherwise noted.

Subpart 101-1.1—Regulation System

§ 101-1.100 Scope of subpart.

This subpart sets forth introductory material concerning the Federal Property Management Regulations System: its content, types, publication, authority, applicability, numbering, deviation procedure, as well as agency consultation, implementation, and supplementation.

§ 101-1.101 Federal Property Management Regulations System.

The Federal Property Management Regulations System described in this subpart is established and shall be used by General Services Administration (GSA) officials and, as provided in this subpart, by other executive agency officials, in prescribing regulations, policies, procedures, and delegations of authority pertaining to the management of property and records, and other programs and activities of the type administered by GSA, except procurement and contract matters contained in the Federal Procurement Regulations (FPR), Subtitle A of this title.

§ 101-1.102 Federal Property Management Regulations.

The Federal Property Management Regulations (FPMR) are regulations, as described by § 101-1.101, prescribed by the Administrator of General Services to govern and guide Federal agencies.

§ 101-1.103 FPMR temporary regulations.

(a) FPMR temporary regulations are authorized for publication when time or exceptional circumstances will not permit promulgation of an amendment to the Code of Federal Regulations and if the regulation will be effective for a period of 12 months or less except as provided in § 101-1.103(b). These temporary regulations will be codified before the designated expiration date or their effective period will be extended if it is determined that conversion to permanent form cannot be accomplished within the specified time frame.

(b) FPMR temporary regulations may have an effective period of up to 2 years when codification is not anticipated or is not considered practical.

[42 FR 12, Jan. 3, 1977, as amended at 44 FR 30096, May 24, 1979]

§ 101-1.104 Publication and distribution of FPMR.

[36 FR 4983, Mar. 16, 1971]

§ 101-1.104-1 Publication.

FPMR will be published in the FEDERAL REGISTER, in looseleaf form, and in accumulated form in the Code of

Federal Regulations. Temporary-type FPMR will be published in the Notices section of the FEDERAL REGISTER and in looseleaf form.

[36 FR 4983, Mar. 16, 1971]

§ 101-1.104-2 Distribution.

(a) Each agency shall designate an official to serve as liaison with GSA on matters pertaining to the distribution of FPMR and other publications in the FPMR series. Agencies shall report all changes in designation of agency liaison officers to the General Services Administration (BRDV), Washington, D.C. 20405.

(b) FPMR and other publications in the FPMR series will be distributed to agencies in bulk quantities for internal agency distribution in accordance with requirements information furnished by liaison officers. FPMR and other publications in the FPMR series will not be stocked by, and cannot be obtained from, GSA regional offices.

(c) Agencies shall submit their consolidated requirements for FPMR and other publications in the FPMR series, including requirements of field activities, and changes in such requirements on GSA Form 2053, Agency Consolidated Requirements for GSA Regulations and Other External Issuances (illustrated at § 101-1.4902-2053). The mailing address is shown on the form.

[36 FR 4983, Mar. 16, 1971]

§ 101-1.105 Authority for FPMR System.

The FPMR system is prescribed by the Administrator of General Services under authority of the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, and other laws and authorities specifically cited in the text.

§ 101-1.106 Applicability of FPMR.

The FPMR apply to all Federal agencies to the extent specified in the Federal Property and Administrative Services Act of 1949 or other applicable law.

§ 101-1.107 Agency consultation regarding FPMR.

FPMR are developed and prescribed in consultation with affected Federal agencies.

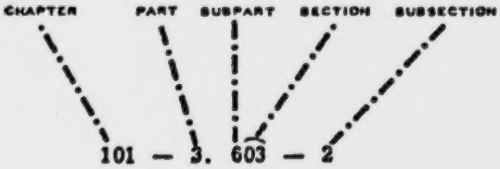
§ 101-1.108 Agency implementation and supplementation of FPMR.

Chapters 102 through 149 of this title are available for agency implementation and supplementation of FPMR contained in Chapter 101 of this title. Supplementation pertains to agency regulations in the subject matter area of FPMR but not yet issued in Chapter 101.

§ 101-1.109 Numbering in FPMR System.

(a) Numbering in the FPMR System will conform with that of the FPR System (§ 1-1.007-2 of this title). Chapter assignments in Title 41, CFR to agencies in the FPMR System will correspond to their chapter assignments in the FPR System except that the number "100" will be added. For example, the Post Office Department has Chapter 39 in the FPR System and in the FPMR System will have Chapter 139.

(b) In the numbering system, all FPMR material is preceded by digit 101-. This means that it is Chapter 101 in Title 41 of the Code of Federal Regulations. It has no other significance. The digit(s) before the decimal point indicates the part; the digits after the decimal point indicate, without separation, the subpart and section, respectively, the latter always in two digits; and the digit(s) after the dash indicates the subsection. For example:



(c) On each page appears the number and date (month and year) of the FPMR amendment which transmitted it.

(d) Agency implementing regulations should conform to the FPMR section numbers, except for the substitution of the chapter designation of the agency. Agency supplementing regulations should be numbered "50" or higher for section, subpart, or part as may be involved.

[29 FR 13255, Sept. 24, 1964, as amended at 39 FR 40952, Nov. 22, 1974]

§ 101-1.110 Deviation.

Insofar as practicable the FPR deviation procedure (§ 1-1.009 of this title) shall be applied with respect to FPMR.

§ 101-1.111 Retention of FPMR amendments.

Retention of FPMR amendments and removed pages will provide a history of FPMR issuances and facilitate determining which regulations were in effect at particular times.

[39 FR 40952, Nov. 22, 1974]

§ 101-1.112 Change lines.

Arrows printed in the margin of a page indicate material changed, deleted, or added by the FPMR amendment cited at the bottom of that page. Where insertion of new material results in shifting of unchanged material on following pages, no arrows will appear on such pages but the FPMR amendment transmitting such new pages will be cited at the bottom of each page.

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└→ or ←┘ — Line on which change ends.
→ or ← — Line on which change both begins and ends.
→ or ← — Opposite a blank space, indicates deletion of a division of material (section, subsection, or paragraph).

[39 FR 40952, Nov. 22, 1974]

Subparts 101-1.2—101-1.48 [Reserved]

Subpart 101-1.49—Illustrations of Forms

§ 101-1.4900 Scope of subpart.

This subpart illustrates forms prescribed or available for use in connection with subject matter covered in other subparts of this Part 101-1.

[36 FR 4983, Mar. 16, 1971]

§ 101-1.4901 Standard forms. [Reserved]

[36 FR 4984, Mar. 16, 1971]

§ 101-1.4902 GSA forms.

(a) The GSA forms are illustrated in this section to show their text, format, and arrangement and to provide a ready source of reference. The subsection numbers in this section correspond with the GSA numbers.

(b) GSA forms illustrated in § 101-1.4902 may be obtained by addressing requests to the General Services Administration (3BRD), Washington, D.C. 20407.

[36 FR 4984, Mar. 16, 1971]

§ 101-1.4902-2053 GSA Form 2053, Agency Consolidated Requirements for GSA Regulations and Other External Issuances.

NOTE: The form listed in 101-1.4902-2053 is filed as part of the original document. Copies of the form may be obtained from the General Services Administration (3BRD), Washington, D.C. 20407.

[36 FR 4984, Mar. 16, 1971]

PART 101-2—PAYMENTS TO GSA FOR SUPPLIES AND SERVICES FURNISHED GOVERNMENT AGENCIES

Subpart 101-2.1—Billings, Payments, and Adjustments

Sec.

101-2.100 Scope of subpart.
101-2.101 Background.
101-2.102 Billing procedures.
101-2.103 SIBAC payment procedures.
101-2.104 SIBAC chargeback procedures.
101-2.105 Non-SIBAC payment procedures.
101-2.106 Adjustments.
101-2.107 Statements of account.

Subpart 101-2.2—Advances

101-2.200 Scope of subpart.
101-2.201 Types of advances.
101-2.201-1 Advance of funds; insufficient capital.
101-2.201-2 Advance for specific services.
101-2.201-3 Advance of funds; mutual agreement.

Subpart 101-2.49—Forms and Reports

101-2.4900 Scope of subpart.
101-2.4901 Standard forms.

Sec.
101-2.4901-1080 Standard Form 1080, Voucher for Transfer between Appropriations and/or Funds.
101-2.4901-1081 Standard Form 1081, Voucher and Schedule of Withdrawals and Credits.
101-2.4902 GSA forms.
101-2.4902-740 GSA Form 740, Invoice for Job Order Work.
101-2.4902-743 GSA Form 743, Invoice for Rent.
101-2.4902-789 GSA Form 789, Statement, Voucher, and Schedule of Withdrawals and Credits.
101-2.4903 Treasury forms.
101-2.4903-7306 TSF Form 7306, Paid Billing Statement for SIBAC Transactions.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

SOURCE: 34 FR 8160, May 24, 1969, unless otherwise noted.

Subpart 101-2.1—Billings, Payments, and Adjustments

§ 101-2.100 Scope of subpart.

This subpart deals with the procedures and forms used by GSA in billing for supplies and services furnished Government agencies, and the procedures for payment and adjustment of these billings.

§ 101-2.101 Background.

(a) GSA provides supplies, equipment, services, space, communications, motor vehicles, printing, and other miscellaneous items for Government agencies on a reimbursable basis. These supplies and services are financed from revolving, management, or working funds, and reimbursement from agencies is obtained through periodic billings and collections intended to permit GSA to operate these programs with a minimum amount of appropriated capital.

(b) The General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies, title 7, chapter 2, section 8.5, provides that billings from GSA shall be paid in accordance with regulations issued by GSA.

(c) In providing for goods or services for Government agencies, GSA must, under certain regulations, provide for payment of the procurement to the vendors for the agencies. The payments are made by GSA without confirmation of actual receipt of the goods or services by the agencies. These procedures are essential to comply with the payment terms and conditions of the purchase order or contract and to earn cash discounts. The payments are made by GSA from revolving funds which are reimbursed from the agencies' appropriations and funds in accordance with § 101-2.103 or § 101-2.105. The agency that ordered and received the goods or services is responsible for the voucher audit (matching of the purchase documents, evidence of receipt, and billing documents). If the receiving agency has not received the goods or services in accordance with purchase order or contract, it is the agency's responsibility to report the losses or discrepancies to GSA in accordance with § 101-2.106 so that GSA may obtain credit from the vendor for overpayments. Credit to the ordering agency will be made by GSA in these cases based upon the report from the agency, and a claim will be placed by GSA against the carrier or vendor for recovery.

[34 FR 8160, May 24, 1969, as amended at 42 FR 55811, Oct. 19, 1977; 43 FR 21882, May 22, 1978]

§ 101-2.102 Billing procedures.

(a) Bills are rendered biweekly, monthly, or quarterly after the fact or in advance on approved billing forms, which are GSA Form 789, Statement, Voucher, and Schedule of Withdrawals and Credits, and Treasury TFS Form 7306, Paid Billing Statement for SIBAC Transactions (illustrated at §§ 101-2.4902-789 and 101-2.4903-7306). Certification of such bills by GSA is not required. Except for those bills which are rendered in advance; bills for shipments from stock are rendered on the basis of drop from inventory, provided that notification of warehouse refusal or other advice of nonavailability has not been received from the depot prior to the billing date; bills for services are rendered after there is evidence of actual delivery of services and; bills for stock direct delivery shipments are rendered based upon payment to the vendor and proof of shipment. However, bills for nonstock direct delivery shipments will not be rendered because customer agencies will make payment directly to the vendor from their appropriations and funds.

(b) GSA will not normally attach signed receipts to the bills for supporting documentation. Rather, documents or billing cards will generally be furnished which will contain the necessary information to permit the agency to identify its requisition, purchase order, travel order, or other obligating documents.

(c) GSA may, at its discretion, process requisitions of $1 or less without billing. Therefore, any agency having such items unbilled 60 days after receipt of the material may assume that they will not be billed and may cancel the obligation accordingly. In addition to billing agencies under the GSA Form 789 procedures as indicated in paragraphs (a) and (b), of this section, GSA also utilizes the Simplified Intragovernmental Billing and Collection (SIBAC) System.

(d) The SIBAC system is prescribed by GSA as indicated within this subpart and by the Treasury Fiscal Requirements Manual for Guidance of Departments and Agencies, chapter 5000 of part VI. The basic concept underlying the SIBAC system is the elimination of governmental receivable and payables; reduction of paperwork; and improved cash flow. Two essential elements of the system are: It provides for immediate payment to the billing agency, and it provides a method by which recipient agencies may charge back erroneous charges billed.

Under this system immediate payment is accomplished by authorizing GSA as the billing agency to credit its own 8 digit pay station symbol and to charge the customer agency's 8-digit pay station symbol for services purchased or supplies shipped. This system also provides for chargebacks which are accomplished on the customer agency's SF 224, Statement of Transactions, by reporting the amount of erroneous charge to a clearing account of the billing agency after proper notification and documentation have been sent to the billing (SIBAC) agency. The system is applicable only when both the billing and customer agencies report their monthly transactions to the Department of the Treasury on SF 224, Statement of Transactions. GSA programs under the SIBAC system are as follows:

(1) Billings to civil executive agencies for supplies from FSS supply distribution facilities for stock and nonstock direct deliveries are billed semimonthly at the GSA accounting centers. For motor pool services civil agencies are billed monthly at the centers. Billings to the Department of Defense (DOD) through the SIBAC system for supplies are contained in the DOD handbook, Military Standard Billing Systems (MILSBILLS) 4000.25-7-M. The basic difference between the SIBAC System operated for civil executive agencies and DOD is the the GSA/DOD system operates with a direct charge by the billings agency to the appropriation or fund account of the customer agency's 8-digit station symbol.

(2) The standard level user charges (SLUC) for space assignments are billed quarterly in advance, and actual adjustments are made quarterly in arrears.

[34 FR 8160, May 24, 1969, as amended at 42 FR 55811, Oct. 19, 1977; 45 FR 68653, Oct. 16, 1980]

§ 101-2.103 SIBAC payment procedures.

Under this system GSA is authorized to charge the 8-digit agency pay station symbol of the customer agencies for services purchased or supplies shipped.

(a) Treasury TFS Form 7306 (illustrated at § 101-2.4903-7306) will be used as the paid billing document in connection with this procedure. GSA as the SIBAC billing agency will attach supporting documentation only when the transaction cannot be adequately described on TFS Form 7306.

(b) The paid billing statement shall be accounted for by the billed agency as an accomplished or paid document and reported on its current SF 224, Statement of Transactions (similar to reporting the charge side of SF 1081, Voucher and Schedule of Withdrawals and Credits). GSA as the SIBAC billing agency will report the credit received from these charges on its SF 224. Both sides of the transaction will be accomplished as of the payment date of the paid billing statement. Immediate payment is accomplished by authorizing GSA to credit its own 8-digit agency pay station symbol and to charge the billed agency's 8-digit pay station symbol for services purchased or supplies shipped.

[42 FR 55812, Oct. 19, 1977, as amended at 43 FR 21882, May 22, 1978]

§ 101-2.104 SIBAC chargeback procedures.

Agencies participating in the SIBAC system with GSA may utilize the chargeback procedure to obtain billing adjustments in accordance with the Treasury Fiscal Requirements Manual for Guidance of Departments and Agencies, part VI, chapter 5000; instructions contained in GSA Handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings (FPMR 101-26.8) or as outlined in § 101-2.106. For DOD the appropriate advice codes contained in the DOD Handbook, MILSBILLS, 4000.25-7-M, shall be used to request adjustments.

(a) Agency finance and accounting activities in receipt of erroneous billings shall request authorization for chargebacks, by telephone, from the GSA SIBAC representatives identified on the TFS Form 7306.

(b) Adjustments in billings involving discrepancies or deficiencies in shipments or material, vendor or carrier liability, or merchandise to be returned to GSA are not subject to the chargeback procedure. These will be reported to the GSA regional office which made or directed shipment of the material for investigation and resolution.

(1) Chargebacks for supplies from the Federal Supply Service will not be authorized for any bills more than 1 year old from the date of the billing nor for items valued at $25 or less per line item on a bill as indicated in § 101-2.106(c).

(2) Agencies other than DOD shall submit documentation to the GSA billing office in support of the chargeback taken. The documentation shall consist of an SF 238, SIBAC Adjustment Voucher for Chargebacks, SIBAC detail line item billing card(s) covering items being charged back (when available), and a copy of the detail billing register (GSA Form 952) with items that were charged back clearly annotated. Such documentation shall cite the authorization number provided by the GSA SIBAC representatives and for FSS supply billings, the appropriate Billing Adjustment Advice Code(s) contained in the GSA Handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings (FPMR 101-26.8).

(3) Erroneous chargebacks will be rejected and/or rebilled.

[42 FR 55812, Oct. 19, 1977, as amended at 43 FR 21883, May 22, 1978]

§ 101-2.105 Non-SIBAC payment procedures.

(a) All GSA invoices or billings, including those representing partial shipment, shall be paid promptly by check or transfer document. This requirement is mandatory to (1) assist GSA in managing its revolving fund operations with a minimum of appropriated capital; (2) reduce the cost of collection in GSA; and (3) reduce the cost of payment for other agencies. To expedite reimbursement and reduce the cost of billings and payments, agencies are requested to ensure that GSA bills are directed to the office authorized to make payment. This will avoid the costly and time-consuming handling of the bills at consignee and interminated offices.

(b) Since the reimbursement requested are between Government agencies, bills shall be paid as rendered without preaudit or receipt verification, subject only to the availability of funds and adjustments for obvious significant errors in dollar amounts. The agencies are responsible for establishing an adequate followup system to ensure that goods and materials paid for are received.

(c) Agencies may use GSA Form 789 (Illustrated at § 101-2.4902-789) in processing payments to GSA in all cases where disbursing offices can place the credit to the appropriate account without the transmittal of a check to the GSA billing office. The

Department of the Treasury disburses payments for certain agency accounting stations; these stations shall send the original and two copies of the GSA Form 789 to the Treasury regional offices for processing in accordance with the instructions contained in Treasury Department Circular No. 495, Second Revision, Procedures Memorandum No. 1, as amended. Agencies making payments by check shall arrange for one copy of the GSA Form 789 to be transmitted with the check when it is forwarded to GSA.

[42 FR 55812, Oct. 19, 1977]

§ 101-2.106 Adjustments.

(a) Exceptions noted either at the time of payment or in postaudit (subject to the provisions of automatic adjustment procedures in paragraph (d) of this section, below) shall be brought to the attention of GSA either by notation on the billing statement or by separate communication. Approved adjustments will be reflected appropriately in subsequent billings.

(b) Agencies shall notify GSA immediately of discrepancies or deficiencies in shipments or nonreceipt of shipments so that appropriate action may be taken. The discrepancies or deficiencies shall be submitted to the GSA office which made or directed shipment in accordance with GSA Handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings (FPMR 101-26.8).

(c) Adjustments of billings or payments for supplies or services are not required and should not be requested or made whenever the difference involved resulting from over or under deliveries or over or under charges is $25 or less on any line item on a bill or for any bills more than 1 year old from the date of billing. This shall not be construed to eliminate billings and payments for requisitioned items of $25 or less. In connection with GSA Federal Supply Service activities, Subpart 101-26.8 is applicable to adjustments for discrepancies or deficiencies in shipments of materials. To minimize followup, research, and collection costs on intragovernmental transactions, agencies are urged to follow the most liberal policy possible in determining whether to request adjustment. To further expedite settlement of accounts between GSA and the billed agencies, such settlement may be made by mutual agreement, regardless of amount, without reference to the General Accounting Office.

(d) Adjustments of billings or payments for supplies or services of $25 or less explained in paragraph (c) of this section do not apply to reimbursable commercial toll charges in the Federal Telecommunications (FT) Fund. However, each agency head shall be responsible for establishing controls over the use of telephones adequate for ensuring that long distance telephone calls are made only when they are the most economical and practicable means of communications available for transaction of Government business. Such controls should also ensure that commercial telephone facilities are used only when Government-owned or -leased facilities are not available or when commercial telephone facilities are more economical than Government-owned or -leased facilities (7 GAO 25-3). Agencies are responsible for establishing an adequate followup system to determine if any toll charges were unofficial or uncertifiable. In the event the billing contains charges of this nature, the department or agency shall:

(1) Investigate and recover from the individual the amount of such charges;

(2) Take appropriate disciplinary action against individuals making unauthorized unofficial calls; and

(3) Refer to GSA all uncertifiable calls remaining in doubt after the above procedures have been carried out with a written statement that investigation does not substantiate either payments pursuant to 31 U.S.C. 680a or further collection efforts by the department, establishment, or agency.

Upon receipt of the above statement for uncertifiable calls, GSA will refer these charges to the telephone company for adjustment and provide credit to the agency.

(e) Credit adjustments for authorized return sales will be issued by GSA upon receipt of the returned material. The credit will be included on the next bill issued.

[42 FR 55812, Oct. 19, 1977, as amended at 43 FR 21883, May 22, 1978]

§ 101-2.107 Statements of account.

A statement of account is mailed quarterly to each agency billed office for unpaid items outstanding on each major revolving fund of GSA. Agencies shall make appropriate notations on the statement regarding the status of each item classified as delinquent and return the statement to GSA.

[42 FR 55813, Oct. 19, 1977]

Subpart 101-2.2—Advances

§ 101-2.200 Scope of subpart.

This subpart prescribes the procedures for providing advances of funds by agencies obtaining supplies and services from GSA to the revolving, management, or working funds operated by GSA.

§ 101-2.201 Types of advances.

§ 101-2.201-1 Advance of funds; insufficient capital.

(a) Whenever GSA determines that the capital in a particular fund is insufficient to finance the general program needs for supplies and services to be requisitioned by agencies supported by a particular fund, the affected agencies will be advised of the amount requested to be deposited to the credit of the fund. Advances will be returned to the agencies by GSA when the need for them no longer exists.

(b) When the amount to be advanced has been determined by mutual agreement, GSA will bill the requisitioning agency by means of Standard Form 1080, Voucher for Transfer Between Appropriations and/or Funds (illustrated at § 101-2.4901-1080), accompanied where appropriate by Standard Form 1081, Voucher and Schedule of Withdrawal and Credits (illustrated at § 101-2.4901-1081), in accordance with the General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies, title 7, chapter 2, section 8. Upon receipt in the agency, a cash transfer or payment by check, as appropriate, shall be accomplished in the normal manner.

§ 101-2.201-2 Advance for specific services.

Advance billings are rendered for the following transactions:

(a) Quarterly advance bills are rendered for reimbursable space occupancy and related costs on GSA Form 743, Invoice for Rent (illustrated at § 101-2.4902-743), at fixed rates per square foot based on estimated costs. Itemization of the elements of costs is not shown in the advance bill, nor is the bill adjusted to actual costs.

(b) Bills rendered on GSA Form 740, Invoice for Job Order Work (illustrated at § 101-2.4902-740), are normally based on actual costs after completion of the job, without itemization of the elements of costs. However, in the case of specific jobs of significant dollar size, advance bills may be rendered to avoid impairment of GSA working capital. In such instances, a final settlement will be made at completion of the job to adjust the billing to actual costs.

§ 101-2.201-3 Advance of funds; mutual agreement.

Whenever circumstances are such that the financing of prospective agency transactions through a fund by means of an advance is advantageous, even though the capital of the fund is adequate, the agency concerned and GSA may mutually agree to such financing of the transactions. This type advance may be necessary to provide financing for specific large dollar value transactions which otherwise may result in a temporary depletion of available cash. In these circumstances, the procedures for effecting payment shall be set forth in a letter of agreement.

(a) The advances may be self-liquidating or for the duration of the circumstances requiring the advance. Self-liquidating advance agreements will generally provide that GSA will apply the amount of billings therefor directly against such advance, and that GSA will periodically render an accounting for the status of the advance to the agency concerned. Upon completion of the transaction, a settlement will be made between the two agencies to close out the transaction.

(b) If the advance is not self-liquidating, the agreement will generally only provide for final settlement between the two agencies and return of all of the unliquidated portion of the advance.

Subpart 101-2.49—Forms and Reports

§ 101-2.4900 Scope of subpart.

This subpart contains illustrations of forms prescribed or available for use in connection with subject matter covered in other subparts of Part 101-2.

§ 101-2.4901 Standard forms.

(a) Standard forms are illustrated in this § 101-2.4901 to show their text, format, and arrangement, and to provide a ready source of reference. The subsection numbers in this section correspond with the Standard form numbers.

(b) Supplies of Standard forms may be obtained from the nearest GSA supply depot.

§ 101-2.4901-1080 Standard Form 1080, Voucher for Transfer between Appropriations and/or Funds.

§ 101-2.4901-1081 Standard Form 1081, Voucher and Schedule of Withdrawals and Credits.

§ 101-2.4902 GSA forms.

(a) GSA forms are illustrated in this section to show their text, format, and arrangement and to provide a ready source of reference. The subsection numbers in this § 101-2.4902 correspond with the GSA form numbers.

(b) GSA forms illustrated in this section may be obtained initially from the General Services Administration (3FNDD), Union and Franklin Streets Annex, Building 11, Alexandria, Va. 22314. Agency regional or field offices should submit future requirements to their Washington headquarters office, which will forward consolidated annual requirements to the General Services Administration (BRO), Washington, D.C. 20405.

[42 FR 55813, Oct. 20, 1977]

§ 101-2.4902-740 GSA Form 740, Invoice for Job Order Work.

§ 101-2.4902-743 GSA Form 743, Invoice for Rent.

§ 101-2.4902-789 GSA Form 789, Statement, Voucher, and Schedule of Withdrawals and Credits.

NOTE: The forms illustrated in § 101-2.4902-789 are filed with the original document and do not appear in the FEDERAL REGISTER.

[42 FR 55813, Oct. 20, 1977]

§ 101-2.4903 Treasury forms.

Treasury forms are illustrated in this section to show their text, format, and arrangement and to provide a ready source of reference. The subsection numbers in this § 101-2.4903 correspond with the Treasury form numbers.

[42 FR 55813, Oct. 20, 1977]

§ 101-2.4903-7306 TFS Form 7306, Paid Billing Statement for SIBAC Transactions.

NOTE: The forms illustrated at § 101-2.4903-7306 are filed with the original document and do not appear in the FEDERAL REGISTER.

[42 FR 55813, Oct. 20, 1977]

PART 101-3—ANNUAL REAL PROPERTY INVENTORIES

Sec.
101-3.000 Scope of part.

Subpart 101-3.1—General Provisions

101-3.100 Scope of subpart.
101-3.101 Background.
101-3.102 Program objectives.
101-3.103 Coverage.
101-3.104 Source of data.
101-3.105 Agency liaison.

Subpart 101-3.2—Annual Report—Real Property Owned by the United States

101-3.200 Scope of subpart.
101-3.201 Reporting agency.
101-3.202 Coverage.
101-3.203 Exclusions.
101-3.204 Reports to be submitted.
101-3.205 Optional reporting method.
101-3.206 Preparation and due dates.

Subpart 101-3.3—Annual Report—Real Property Leased to the United States

Sec.
101-3.300 Scope of subpart.
101-3.301 Reporting agency.
101-3.302 Coverage.
101-3.303 Exclusions.
101-3.304 Reports to be submitted.
101-3.305 Optional reporting method.
101-3.306 Preparation and due dates.

Subparts 101-3.4—101-3.48—[Reserved]

Subpart 101-3.49—Forms and Reports

101-3.4900 Scope of subpart.
101-3.4901 GSA forms.
101-3.4901-1166 GSA Form 1166: Annual Report of Real Property Owned by the United States.
101-3.4901-1166(I) Instructions for the preparation of GSA Form 1166: Annual Report of Real Property Owned by the United States.
101-3.4901-1166A GSA Form 1166A: Annual Report of Real Property Leased to the United States.
101-3.4901-1166A(I) Instructions for the preparation of GSA Form 1166A: Annual Report of Real Property Leased to the United States.
101-3.4901-1166A(I-A) Major cities.
101-3.4901-1209 GSA Form 1209: Summary of Number of Installations Owned by the United States.
101-3.4901-1209(I) Instructions for the preparation of GSA Form 1209: Summary of Number of Installations Owned by the United States.
101-3.4901-1209A GSA Form 1209A: Comparative Summary of Properties Leased to the United States.
101-3.4901-1209A(I) Instructions for the preparation of GSA Form 1209A: Comparative Summary of Properties Leased to the United States.

AUTHORITY: Sec. 205(c), 63 Stat. 390 40 U.S.C. 486(c).

SOURCE: 29 FR 15596, Nov. 20, 1964, unless otherwise noted.

§ 101-3.000 Scope of part.

This part prescribes the procedure and forms for use by executive agencies in connection with the preparation of annual reports necessary for the maintenance and publication of inventories of real property owned by and leased to the United States as of June 30 each year.

Subpart 101-3.1—General Provisions

§ 101-3.100 Scope of subpart.

This subpart deals with the background, objectives, and coverage of reports in connection with the real property owned by and leased to the United States.

§ 101-3.101 Background

(a) The inventory of Federal real property was initiated and is being continued at the request of the Senate Committee on Appropriations.

(b) The House Committee on Government Operations annually requests data on all Federally-owned real property for inclusion in its real and personal property inventory reports.

§ 101-3.102 Program objectives.

The principal objectives of the Government-wide real property inventory program are:

(a) To provide a centralized source of information on Federal real property holdings.

(b) To achieve the most effective control and economical Government-wide utilization of available property,

(c) To facilitate disposal of surplus property,

(d) To provide a basis for the intelligent evaluation and appraisal of budgetary requirements, and

(e) To establish a ready reference for answering inquiries from the Congress, the press, trade associations, educational institutions, Federal, State, and local government agencies, and the general public.

§ 101-3.103 Coverage.

The inventory reports prescribed in this Part 101-3 shall cover land, buildings, and other structures and facilities throughout the world, which are owned by or leased to the United States, including wholly-owned Federal Government corporations.

§ 101-3.104 Source of data.

Data reported shall be based on agency real property and accounting records.

§ 101-3.105 Agency liaison.

Each reporting agency shall designate an official to serve as agency representative for each of the real property inventories. The same representative may be designated for the federally owned and leased real property inventories. The General Services Administration, Office of Finance and Administration, Washington, D.C. 20405, shall be advised in writing of the names of all such representatives and subsequent changes.

Subpart 101-3.2—Annual Report—Real Property Owned by the United States

§ 101-3.200 Scope of subpart.

This subpart prescribes the procedure and forms to be used by executive agencies in connection with annual reports on real property owned by the United States.

§ 101-3.201 Reporting agency.

Reports on real property owned by the United States shall be submitted by the agency responsible for the maintenance of real property records and accounts as prescribed by General Accounting Office principles and standards and illustrated in 2 GAO 1270 and 2 GAO 7030; i.e., the agency which has control of and the authority to assign and reasign the use of the property or any portion thereof. For purposes of this inventory, the above rule shall apply regardless of the manner of acquisition or which agency is currently using the property. For example:

(a) For general purpose buildings, such as office buildings or warehouses which are occupied by a Federal agency or agencies upon determination by GSA and for which GSA is responsible for elevator and guard service, and for cleaning and maintenance, GSA is the reporting agency.

(b) For special purpose buildings, such as Coast Guard stations, military reservations, hospitals, and prisons, those agencies having control of building management and operation including authority to assign or reassign space in such buildings, will be considered as the reporting agencies.

§ 101-3.202 Coverage.

The annual reports of real property owned by the United States shall cover land, buildings, and other structures and facilities owned by the United States throughout the world. These reports shall include the following:

(a) Unreserved public domain lands.

(b) Public domain lands reserved for national forests, national parks, military installations, or other purposes.

(c) Real property acquired by purchase, construction, donation, and other methods.

(d) Real property in which the Government has a long-term interest considered by the reporting agency as being equivalent to ownership.

(e) Buildings or other structures and facilities owned by the Government whether or not located on Government-owned land.

(f) Excess and surplus real property. (The reporting agency, as defined in § 101-3.201, shall continue to retain accountability and report excess and surplus real property pending its transfer to a Federal agency or disposal.)

(g) Buildings being acquired under the terms of the Public Buildings Purchase Contract Program or Lease Purchase Agreements (39 U.S.C. 2103, 40 U.S.C. 356). Buildings shall be reported upon completion of construction. Separate annual reports shall also be submitted for real properties held in trust by the Federal Government.

§ 101-3.203 Exclusions

Annual inventory reports on real property owned by the United States shall not include the following:

(a) Properties acquired through foreclosure, confiscation, or seizure to be liquidated in settlement of a claim or debt to the Federal Government.

(b) Rights-of-way or easements granted to the Government.

(c) Lands administered by the United States under trusteeship by authority of the United Nations.

(d) Machinery and processing equipment which are not part of the realty.

(e) Land held under permit from another Government agency.

§ 101-3.204 Reports to be submitted.

(a) Each agency shall prepare in accordance with instructions in § 101-3.4901-1166(I) and submit to GSA a separate report on GSA Form 1166, Annual Report of Real Property Owned by the United States (see § 101-3.4901-1166) for:

(1) Each newly acquired or previously omitted installation.

(2) Each installation received by transfer from another Federal agency which is not merged with an existing installation.

(3) Each installation with increases or decreases in cost of $1,000 or more affecting any line item or the total for the installation.

(4) Each installation declared excess or surplus, in whole or in part.

(5) Each disposal of a complete installation.

(6) Each installation for which a revision of an entry on a previous report is necessary to reflect a change in the name of an installation, date or method of acquisition of property, acreage, number and/or floor area of buildings, or predominant usage category of land, buildings, or other structures and facilities.

(b) Each agency shall prepare, in accordance with instructions in § 101-3.4901-1209(I) and submit to GSA a separate report on GSA Form 1209. Summary of Number of Installations Owned by the United States (see § 101-3.4901-1209) for each bureau or other major organizational unit, for (1) properties in the United States; and (2) properties outside the United States. Reports on GSA Form 1209 shall be submitted whether or not changes have occurred since the previous report.

§ 101-3.205 Optional reporting method.

Agencies with electrical accounting machine equipment may make arrangements with the GSA, Office of Finance and Administration, to furnish detailed machine listings together with the supporting punch cards, in lieu of GSA Forms 1166. However, GSA Forms 1209 shall be submitted as prescribed in § 101-3.204(b).

§ 101-3.206 Preparation and due dates.

The annual inventory reports prescribed in § 101-3.204 shall be prepared as of June 30, each year. An original and one copy of each report shall be submitted to the General Services Administration, Office of Finance and Administration, Washington, D.C. 20405, not later than September 1.

Subpart 101-3.3—Annual Report—Real Property Leased to the United States

§ 101-3.300 Scope of subpart.

This subpart prescribes the procedure and forms to be used by executive agencies in connection with annual reports on real property leased to the United States.

§ 101-3.301 Reporting agency.

Reports on real property leased to the United States shall be submitted by the agency currently administering the lease and making payments to the lessor, regardless of which agency executed the original lease or is currently using the property.

§ 101-3.302 Coverage.

(a) The annual report of real property leased to the United States shall include all real property leased from private individuals, organizations, and municipal, county, State, and foreign governments, as evidenced by a written agreement involving a monetary consideration and a landlord-tenant relationship. It shall also include right of use and occupancy obtained under eminent domain proceedings or equivalent procedures.

(b) Real property leased rent free or for nominal rental may be included when the property is considered significant by the reporting agency. 35 Comp. Gen. 713 is suggested to a guide to help resolve questions pertaining to the definition of nominal payment.

§ 101-3.303 Exclusions.

Items to be excluded from the annual reports are: (a) Real property occupied under permit or other arrangements with other Federal agencies or wholly owned Federal Government corporations; (b) leasehold improvements (Government-owned buildings or structures located on leased land shall be reported as owned); (c) rights-of-way and easements; and (d) real property leased rent free or for nominal rent when property is not considered significant by the reporting agency.

§ 101-3.304 Reports to be submitted.

(a) Each agency shall prepare, in accordance with instructions in § 101-3.4901-1166A(I) and submit to GSA a report of its leased real property holdings on GSA Form 1166A, Annual Report of Real Property Leased to the United States (see § 101-3.4901-1166A).

(b) Each agency shall prepare, in accordance with instructions in § 101-3.4901-1209A(I) and submit to GSA a separate report on GSA Form 1209A, Comparative Summary of Properties Leased to the United States (see § 101-3.4901-1209A), for each bureau of other major organizational unit, for: (1) Properties in the United States; and (2) properties outside the United States.

§ 101-3.305 Optional reporting method.

Agencies with electrical accounting equipment may make arrangements with the General Services Administration, Office of Finance and Administration, to furnish detailed machine listings, together with the supporting punch cards, in lieu of GSA Forms 1166A. However, GSA Forms 1209A shall be submitted as prescribed in § 101-3.304(b).

§ 101-3.306 Preparation and due dates.

The annual inventory reports prescribed in § 101-3.304 shall be prepared as of June 30, each year. An original and one copy of each report shall be submitted to the General Services Administration, Office of Finance and Administration, Washington, D.C. 20405, not later than October 1.

Subparts 101-3.4—101-3.48 [Reserved]

Subpart 101-3.49—Forms and Reports

NOTE: GSA forms filed with the Office of the Federal Register as part of the original document. Copies may be obtained from Central Office, GSA.

§ 101-3.4900 Scope of subpart.

This subpart contains illustrations of forms and instructions for their completion, to be used by executive agencies in connection with the submission of annual reports of real property owned by and leased to the United States.

§ 101-3.4901 GSA forms.

The GSA forms illustrated and instructions for their preparation are included in this subpart to provide a ready source of reference. The subsection numbers in this section correspond to the GSA form numbers and related instructions for their preparation. Thus, in § 101-3.4901-1166 appears GSA Form 1166, and in § 100-3.4901-1166(I) appears instructions for the preparation of GSA Form 1166.

§ 101-3.4901-1166 GSA Form 1166: Annual Report of Real Property Owned by the United States.

§ 101-3.4901-1166(I) Instructions for the preparation of GSA Form 1166: Annual Report of Real Property Owned by the United States.

§ 101-3.4901-1166A GSA Form 1166A:

Annual Report of Real Property Leased to the United States.

§ 101-3.4901-1166A(I) Instructions for the preparation of GSA Form 1166A: Annual Report of Real Property Leased to the United States.

§ 101-3.4901-1166A(I-A) Major cities.

§ 101-3.4901-1209 GSA Form 1209: Summary of Number of Installations Owned by the United States.

§ 101-3.4901-1209(I) Instructions for the preparation of GSA Form 1209: Summary of Number of Installations Owned by the United States.

§ 101-3.4901-1209A GSA Form 1209A: Comparative Summary of Properties Leased to the United States.

§ 101-3.4901-1209A(I) Instructions for the preparation of GSA Form 1209A: Comparative Summary of Properties Leased to the United States.

PART 101-4—PATENTS

Subpart 101-4.1 Licensing of Government-Owned Inventions

Sec.

101-4.100 Scope of subpart.
101-4.101 Policy.
101-4.102 Definitions.
101-4.103 Types of licenses and conditions for licensing.
101-4.103-1 Government inventions available for licensing.
101-4.103-2 Nonexclusive license.
101-4.103-3 Limited exclusive license.
101-4.103-4 Additional licenses.
101-4.103-5 Royalties.
101-4.103-6 Reports.
101-4.104 Procedures.
101-4.104-1 Government agency publication requirements.
101-4.104-2 Contents of a nonexclusive license application.
101-4.104-3 Contents of an exclusive license application.
101-4.104-4 Published notices.
101-4.104-5 Modification or revocation.
101-4.104-6 Appeals.
101-4.105 Litigation.
101-4.106 Transfer of custody of Government inventions.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), unless otherwise noted.

SOURCE: 38 FR 3328, Feb. 5, 1973, unless otherwise noted.

Subpart 101-4.1—Licensing of Government-Owned Inventions

§ 101-4.100 Scope of subpart.

This subpart prescribes the terms, conditions, and procedures for the licensing of rights in domestic patents and patent applications vested in the United States of America, and for dedication of Government-owned inventions by a Government agency.

§ 101-4.101 Policy.

(a) A major premise of the Presidential Statement of Government Patent Policy, August 23, 1971 (36 FR 16887, August 26, 1971), is that Government-owned inventions normally will best serve the public interest when they are developed to the point of practical application and made available to the public in the shortest possible time. The granting of express nonexclusive or exclusive licenses for the practice of these inventions may assist in the accomplishment of the national objective to achieve a dynamic and efficient economy. However, it is recognized that there may be inventions as to which a Government agency deems dedication preferable to accomplish these objectives.

(b) The granting of nonexclusive licenses generally is preferable since the invention is thereby laid open to all interested parties and serves to promote competition in industry, if the invention is in fact promoted commercially. However, to obtain commercial utilization of the invention, it may be necessary to grant an exclusive license for a limited period of time as an incentive for the investment of risk capital to achieve practical application of an invention.

(c) Whenever the grant of an exclusive license is deemed appropriate, it shall be negotiated on terms and conditions most favorable to the public interest. In selecting an exclusive licensee, consideration shall be given to the capabilities of the prospective licensee to further the technical and market development of the invention, his plan to undertake the development, the projected impact on competition, and the benefit to the Government and the public. Consideration shall be given also assisting small business and minority business enterprises, as well as economically depressed, low income, and labor surplus areas, and whether each or any applicant is a U.S. citizen or corporation. Where there is more than one applicant for an exclusive license, that applicant shall be selected who is determined to be most capable of satisfying the criteria and achieving the goals set forth in this subpart.

(d) Subject to the following: (1) Specific statutes governing the utilization of patent rights of certain Government agencies, or (2) any existing or future treaty or agreement between the United States and any foreign government or intergovernmental organization, or (3) licenses under or other rights to inventions made or conceived in the course of or under Government research and development contracts where such licenses or other rights to such inventions are granted to or provided for in the contract and acquired by the party contracting with the Government agency, no license shall be granted or implied in a Government-owned invention except as provided for in this subpart.

(e) No grant of a license under this subpart shall be construed to confer upon any licensee any immunity from the antitrust laws or from a charge of patent misuse, and the acquisition and use of rights pursuant to this subpart shall not be immunized from the operation of State or Federal law by reason of the source of the grant.

§ 101-4.102 Definitions.

(a) "Government invention" means an invention covered by a domestic patent or patent application that is vested in the United States and is designated by the Government agency having custody of the invention as appropriate for the grant of an express nonexclusive or exclusive license.

(b) "To the point of practical application" means to manufacture in the case of a composition or product, to practice in the case of a process, or to operate in the case of a machine under such conditions as to establish that the invention is being worked and that its benefits are reasonably accessible to the public.

(c) "Government agency" means any executive department, independent commission, board, office, agency, administration, authority, wholly owned corporation, or other independent establishment of the executive branch of the Government of the United States of America.

(d) "The head of the Government agency" means the head of the agency or his designee.

§ 101-4.103 Types of licenses and conditions for licensing.

§ 101-4.103-1 Government inventions available for licensing.

Government inventions normally will be made available for the granting of express nonexclusive or limited exclusive licenses to responsible applicants according to the factors and conditions set forth in §§ 101-4.103-2 and 101-4.103-3, subject to the applicable procedures of § 101-4.104.

§ 101-4.103-2 Nonexclusive license.

(a) *Availability of licenses.* Each Government invention normally shall be made available for the granting of nonexclusive revocable licenses, subject to the provisions of any other licenses, including those under § 101-4.103-4.

(b) *Terms of grant.* (1) The duration of the license shall be for a period as specified in the license agreement, provided that the licensee complies with all the terms of the license.

(2) The license shall require the licensee to bring the invention to the point of practical application within a period specified in the license, or such extended period as may be agreed upon, and to continue to make the benefits of the invention reasonably accessible to the public.

(3) The license may be granted for all or less than all fields of use of the invention, and throughout the United States of America, its territories and possessions, the Commonwealth of Puerto Rico, and the District of Columbia, or in any lesser geographic portion thereof.

(4) After termination of a period specified in the license agreement, the Government agency may restrict the license to the fields of use and/or geo-

graphic areas in which the licensee has brought the invention to the point of practical application and continues to make the benefits of the invention reasonably accessible to the public.

(5) The license may extend to subsidiaries and affiliates of the licensee but shall be nonassignable without approval of the Government agency, except to the successor of that part of the licensee's business to which the invention pertains.

§ 101-4.103-3 Limited exclusive license.

(a) *Availability of licenses.* Each Government invention may be made available for the granting of a limited exclusive license provided that:

(1) The invention has been published as available for licensing pursuant to § 101-4.104-1 for a period of at least 6 months;

(2) The head of the Government agency has determined that (i) the invention may be brought to the point of practical application in certain fields of use and/or in certain geographical locations by exclusive licensing, (ii) the desired practical application has not been achieved under any nonexclusive license granted on the invention, and (iii) the desired practical application is not likely to be achieved expeditiously in the public interest under a nonexclusive license or as a result of further Government-funded research or development;

(3) The notice of the prospective licensee has been published, pursuant to § 101-4.104-4(a) for at least 60 days; and

(4) After termination of the period set forth in § 101-4.103-3(a)(3), the Government agency has determined that no applicant for a nonexclusive license has brought or will bring, within a reasonable period, the invention to the point of practical application as specified in the exclusive license, and that to grant the exclusive license would be in the public interest.

(b) *Selection of exclusive licensee.* An exclusive licensee shall be selected on bases consistent with the policy set forth in § 101-4.101 and in accordance with the procedures set forth in § 101-4.104.

(c) *Terms of grant.* (1) The license may be granted for all or less than all fields of use of the Government invention and throughout the United States of America, its territories and possessions, the Commonwealth of Puerto Rico, and the District of Columbia, or in any lesser geographic portion thereof.

(2) Subject to the rights reserved to the Government in §§ 101-4.103-3(c)(6) and 101-4.103-3(c)(7), the licensee shall be granted the exclusive right to practice the invention in accordance with the terms and conditions specified in the license.

(3) The duration of the license shall be negotiated but shall be for a period less than the terminal portion of the patent, the period remaining being sufficient to make the invention reasonably available for the grant of a nonexclusive license; and such period of exclusivity shall not exceed 5 years unless the head of the Government agency determines on the basis of a written submission supported by a factual showing that a longer period is reasonably necessary to permit the licensee to enter the market and recoup his reasonable costs in so doing.

(4) The license shall require the licensee to bring the invention to the point of practical application within a period specified in the license, or within a longer period as approved by the Government agency, and to continue to make the benefits of the invention reasonably accessible to the public.

(5) The license shall require the licensee to expend a specified minimum amount of money and/or to take other specified actions, within a specified period of time after the effective date of the license, in an effort to bring the invention to the point of practical application.

(6) The license shall be subject to the irrevocable royalty-free right of the Government of the United States to practice and have practiced the invention by or on behalf of the Government of the United States and on behalf of any foreign government or intergovernmental organization pursuant to any existing or future treaty or agreement with the United States.

(7) The license shall reserve to the Government agency the right to require the licensee to grant sublicenses

to responsible applicants on terms that are reasonable in the circumstances (i) to the extent that the invention is required for public use by Government regulations, or (ii) as may be necessary to fulfill health or safety needs, or (iii) for other public purposes stipulated in the license.

(8) The license may extend to subsidiaries and affiliates of the licensee but shall be nonassignable without approval of the Government agency, except to successors of that part of the licensee's business to which the invention pertains.

(9) An exclusive licensee may grant sublicenses under his license, subject to the approval of the Government agency. Each sublicense granted by an exclusive licensee shall make reference to the exclusive license, including the rights retained by the Government under the exclusive license, and a copy of such sublicense shall be furnished to the Government agency.

(10) The license may be subject to such other terms as may be in the public interest.

[38 FR 3328, Feb. 5, 1973, as amended at 38 FR 15509, June 13, 1973]

§ 101-4.103-4 Additional licenses.

Subject to any outstanding licenses, nothing in this subpart shall preclude a Government agency from granting additional nonexclusive or limited exclusive licenses for Government-owned inventions when the Government agency determines that to do so would provide for an equitable exchange of patent rights. The following exemplify circumstances wherein such licenses may be granted:

(a) In consideration of the settlement of an interference;

(b) In consideration of a release of a claim of infringement; or

(c) In exchange for or as part of the consideration for a license under adversely held patents.

§ 101-4.103-5 Royalties.

(a) Normally, royalties shall not be charged under nonexclusive licenses granted to U.S. citizens and U.S. corporations on Government inventions; however, the Government agency may require other considerations.

(b) A limited exclusive license on a Government invention shall contain a royalty provision and/or other consideration flowing to the Government.

[38 FR 3328, Feb. 5, 1973, as amended at 39 FR 28288, Aug. 6, 1974]

§ 101-4.103-6 Reports.

A license shall require the licensee to submit periodic reports on his efforts to achieve practical application of the invention. The reports shall contain information within his knowledge, or which he may acquire under normal business practices, pertaining to the commercial use being made of the invention and other information which the Government agency may determine is pertinent to its licensing activities and is specified in the license.

§ 101-4.104 Procedures.

§ 101-4.104-1 Government agency publication requirements.

Each Government agency shall cause to be published in the Federal Register, the Official Gazette of the U.S. Patent Office, and at least one other publication that the Government agency deems would best serve the public interest, a list of the Government inventions in its custody available for licensing under the conditions specified in § 101-4.103. The list shall be revised periodically to include directly, or by reference to a previously published list, all inventions currently available for licensing. Other publications on inventions available for licensing are encouraged and may include abstracts, when appropriate, as well as information on the design, construction, use, and potential market for the inventions.

§ 101-4.104-2 Contents of a nonexclusive license application.

An application for a nonexclusive license under a Government invention should be addressed to the head of the Government agency having custody of the invention, and shall include:

(a) Identification of invention for which license is desired, including the patent application serial number or patent number, title and date, if known, and any other identification of invention;

(b) Name and address of the person, company, or organization applying for license and whether the applicant is a U.S. citizen or a U.S. corporation;

(c) Name and address of representative of applicant to whom correspondence should be sent;

(d) Nature and type of applicant's business;

(e) Source of information concerning the availability of a license on this invention;

(f) Purpose for which license is desired and a brief description of applicant's plan to achieve that purpose;

(g) A statement of the fields of use for which applicant intends to practice the invention; and

(h) A statement as to the geographic areas in which the applicant would practice the invention.

§ 101-4.104-3 Contents of an exclusive license application.

In addition to the information indicated in § 101-4.104-2, an application for an exclusive license shall include:

(a) Applicant's status, if any, in any one or more of the following categories: (1) Small business firm, (2) minority business enterprise, (3) location in a surplus labor area, (4) location in a low-income area, and (5) location in an economically depressed area;

(b) A statement of applicant's capability to undertake the development and marketing required to achieve the practical application of the invention;

(c) A statement describing the time, expenditure, and other acts which the applicant considers necessary to achieve practical application of the invention and the applicant's offer to invest that sum to perform such acts if the license is granted;

(d) A statement that contains the applicant's best knowledge of the extent to which the Government invention is being practiced by private industry and the Government; and

(e) Any other facts which the applicant believes are evidence that it is in the public interest for the Government agency to grant an exclusive license rather than a nonexclusive license and that such exclusive license should be granted to the applicant.

§ 101-4.104-4 Published notices.

(a) A notice that a prospective exclusive licensee has been selected shall be published in the FEDERAL REGISTER, and a copy of the notice shall be sent to the Attorney General. The notice shall include:

(1) Identification of the invention;

(2) Identification of the selected licensee;

(3) Duration and scope of the contemplated license; and

(4) A statement to the effect that the license will be granted unless:

(i) An application for a nonexclusive license, submitted by a responsible applicant pursuant to § 101-4.104-2, is received by the Government agency having custody of the invention within 60 days from the publication of the notice in the FEDERAL REGISTER, and the Government agency determines in accordance with its prescribed procedures under which procedures the Government agency shall record and make available for public inspection all decisions made pursuant thereto and the basis therefor, that the applicant has established that he has already achieved or is likely to bring the invention to the point of practical application within a reasonable period under a nonexclusive license; or

(ii) The Government agency determines that a third party has presented evidence and argument which has established that it would not be in the public interest to grant the exclusive license.

(b) If an exclusive license has been granted pursuant to this Subpart 101-4.1, notice thereof shall be published in the FEDERAL REGISTER. Such notice shall include:

(1) Identification of the invention;

(2) Identification of the licensee; and

(3) Duration and scope of the license.

(c) If an exclusive license has been modified or revoked pursuant to § 101-4.104-5, notice thereof shall be published in the FEDERAL REGISTER. Such notice shall include:

(1) Identification of the invention;

(2) Identification of the licensee; and

(3) Effective date of the modification or revocation.

§ 101-4.104-5 Modification or revocation.

(a) Any license granted pursuant to this Subpart 101-4.1 may be modified or revoked by the Government agency granting the license if the licensee at any time defaults in making any report required by the license or commits any breach of any convenant or agreement therein contained.

(b) A license may also be revoked by the Government agency granting the license if the licensee willfully makes a false statement of a material fact or willfully omits a material fact in the license application or any report required in the license agreement.

(c) Before modifying or revoking any license granted pursuant to this subpart for any cause, the Government agency shall furnish the licensee and any sublicensee of record a written notice of intention to modify or revoke the license and the licensee and any sublicensee shall be allowed 30 days after such notice to remedy any breach of any covenant or agreement as referred to in paragraph (a) of this section or to show cause why the license should not be modified or revoked.

§ 101-4.104-6 Appeals.

An applicant for a license, a licensee, or such other third party who has participated under § 101-4.104-4(a)(4)(ii) shall have the right to appeal, in accordance with procedures prescribed by the Government agency, any decision concerning the granting, denial, interpretation, modification, or revocation of a license.

§ 101-4.105 Litigation.

The property interest in a patent is the right to exclude. It is not the intent of the Government to transfer the property right in a patent when a license is issued pursuant to this subpart. Accordingly, the right to sue for infringement shall be retained with respect to all licenses so issued by the Government.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)); sec. 2, President's Statement of Government Patent Policy, August 23, 1971)

[39 FR 28288, Aug. 6, 1974]

§ 101-4.106 Transfer of custody of Government inventions.

A Government agency having custody of a Government-owned invention may enter into an agreement to transfer its custody to another Government agency for purposes of administration, including the granting of licenses pursuant to this subpart.

PART 101-5—CENTRALIZED SERVICES IN FEDERAL BUILDINGS

Sec.

101-5.000 Scope of part.

Subpart 101-5.1—General

101-5.100 Scope of subpart.
101-5.101 Applicability.
101-5.102 Definitions.
101-5.103 Policy.
101-5.104 Economic feasibility of centralized services.
101-5.104-1 General.
101-5.104-2 Basis for determining economic feasibility.
101-5.104-3 Data requirements for feasibility studies.
101-5.104-4 Scheduling feasibility studies.
101-5.104-5 Designating agency representatives.
101-5.104-6 Conduct of feasibility studies.
101-5.104-7 Administrator's determination.
101-5.105 Operation of the centralized facility.
101-5.106 Agency committees.

Subpart 101-5.2—Centralized Field Duplicating Services

101-5.200 Scope of subpart.
101-5.201 Applicability.
101-5.202 Types of centralized field duplicating services.
101-5.203 Economic feasibility of centralized field duplicating services.
101-5.203-1 Scheduling of feasibility studies.
101-5.203-2 Notification of feasibility studies.
101-5.203-3 Initiation of feasibility studies.
101-5.203-4 Duplicating Services—Individual Agency Survey.
101-5.203-5 Uniform space allowances.
101-5.203-6 Pooling of equipment and personnel.
101-5.203-7 Determination of feasibility.
101-5.204 Operation of centralized field duplicating plants.
101-5.204-1 Continuity of service.
101-5.204-2 Announcement of centralized services.
101-5.204-3 Appraisal of operations.

Sec.
101-5.205 Designation of other agencies to operate plants.
101-5.205-1 General.
101-5.205-2 Prerequisites to designation of other agencies.
101-5.205-3 Actions prior to operation of plant.
101-5.205-4 Plant inspections and customer evaluations.

Subpart 101-5.3—Federal Employee Health Services

101-5.300 Scope of subpart.
101-5.301 Applicability.
101-5.302 Objective.
101-5.303 Guiding principles.
101-5.304 Type of occupational health services.
101-5.305 Agency participation.
101-5.306 Economic feasibility.
101-5.307 Public Health Service.

Subparts 101-5.4—101-5.48 [Reserved]

Subpart 101-5.49—Forms, Reports, and Instructions

101-5.4900 Scope of subpart.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), unless otherwise noted.

§ 101-5.000 Scope of part.

This part prescribes the methods by which the General Services Administration provides for establishment of centralized services in Federal buildings occupied by a number of executive agencies.

[30 FR 4199, Mar. 31, 1965]

Subpart 101-5.1—General

SOURCE: 30 FR 4199, Mar. 31, 1965, unless otherwise noted.

§ 101-5.100 Scope of subpart.

This subpart states general policies, guidelines, and procedures for establishing centralized services in multioccupant Federal buildings.

[42 FR 35853, July 12, 1977]

§ 101-5.101 Applicability.

The regulations in this part apply to all executive agencies which occupy space in or are prospective occupants of multioccupant Federal buildings located in the United States. In appropriate circumstances, the centralized services provided pursuant to this part may be extended to agencies occupying nearby Federal buildings. For purposes of this part, reference to Federal buildings may be deemed to include, when appropriate, leased buildings under the control of GSA.

§ 101-5.102 Definitions.

(a) "Centralized services" means those central supporting services and facilities provided to occupying agencies in Federal buildings in lieu of each agency providing the same services or facilities for its own use. It does not include such common buildings features as cafeterias, blind stands, auditoriums, dumbwaiters, incinerators, loading platforms, or similar facilities. Excluded, also, are interagency motor vehicle pools established pursuant to Pub. L. 766, 83d Congress, and covered by Part 101-39 of this chapter.

(b) "Occupying agency" means any Federal agency assigned space in a building for which GSA has responsibility for the functions of operation and maintenance in addition to space assignment.

§ 101-5.103 Policy.

To the extent practicable, GSA will provide or arrange for the provision of centralized services whenever such services insure increased efficiency and economy to the Government without hampering program activities or essential internal administration of the agencies to be served.

§ 101-5.104 Economic feasibility of centralized services.

§ 101-5.104-1 General.

GSA is currently providing various centralized services to Federal agencies in such fields as office and storage space, supplies and materials, communications, records management, and transportation services. Centralization of other supporting services or activities such as health units, printing and duplicating plants, use of training devices and facilities, pistol ranges, and central facilities for receipt and dispatch of mail, is frequently feasible with resulting economies in personnel, equipment, and space. Opportunities to effect economies through planned consolidation of such services occur particularly during the design stage of the construction of new Federal buildings.

§ 101-5.104-2 Basis for determining economic feasibility.

(a) Whenever possible, determination of the economic feasibility of a proposed centralized service shall be based upon standard data on the relationship of the size of the Federal building, the number of occupants, location, and other factors pertinent to the type of centralized service being considered.

(b) In the absence of standard data on which a determination of economic feasibility can be based, or where such data must be supplemented by additional factual information, a formal feasibility study will be made by GSA prior to a final determination to proceed with the furnishing of a centralized service. Generally, a formal feasibility study will be made only if provision of the proposed centralized service would involve the pooling of staff, equipment, and space which occupying agencies otherwise would be required to utilize in providing the service for themselves. Examples of centralized services which require formal studies include printing and duplicating plants, self-service stores, and similar facilities.

(c) On the basis of experience under the centralized services program, GSA will develop criteria as to cost comparisons, production needs, building population, number of agencies involved, and other appropriate factors for consideration in determining the practicability of establishing various types of centralized services.

§ 101-5.104-3 Data requirements for feasibility studies.

(a) The data requirements for feasibility studies may vary from program to program, but shall be standard within any single program. Such data shall disclose the costs resulting from provision of the service on a centralized basis as compared to the same service provided separately by each of the occupying agencies, including the costs of personnel assigned to provide the service, comparative space needs, equipment utilization, and any other pertinent factors.

(b) Wherever feasible and appropriate, data will be secured directly from the prospective occupying agencies, subject to necessary verification procedures. Suitable standard formats and necessary instructions for submission of data will be prescribed in applicable subchapters of Chapter 101.

(c) Agencies required to submit data for a feasibility study will be furnished with copies of the prescribed reporting forms and such assistance as may be needed to assure their accurate and timely completion.

§ 101-5.104-4 Scheduling feasibility studies.

The schedule of feasibility studies will be coordinated by GSA with its construction, space management, and buildings management programs. Before initiating the study, the Administrator of General Services, or his authorized designee, will give at least 30 days' notice to the head of each agency that would be served by the proposed centralized facility. Such notice will contain an indication of the cost elements involved and the general procedures to be followed in the study.

§ 101-5.104-5 Designating agency representatives.

The head of each agency receiving a GSA notice regarding a scheduled feasibility study will be requested to designate one or more officials at the location where the study will be made who may consult with authorized GSA representatives. Such information and assistance as is required or pertinent for an adequate review of the feasibility of the proposed centralized service shall be made available to GSA through the designated agency representatives.

§ 101-5.104-6 Conduct of feasibility studies.

An initial meeting of the representatives of prospective occupying agencies will be held to discuss the objectives and detailed procedures to be followed in the conduct of each feasibility study. Arrangements will be made at this meeting for securing all necessary data in accordance with § 101-5.104-3.

§ 101-5.104-7 Administrator's determination.

(a) The Administrator of General Services will determine, on the basis of the feasibility study, whether provision of a centralized service meets the criteria for increased economy, efficiency, and service, with due regard to the program and internal administrative requirements of the agencies to be served. The Director of the Office of Management and Budget and the head of each agency affected will be advised of the Administrator's determination and of the reasons therefor. Each determination to provide a centralized service shall include a formal report containing an explanation of the advantages to be gained, a comparison of estimated annual costs between the proposed centralized operation and separate agency operations, and a statement of the date the centralized facility will be fully operational.

(b) While a formal appeals procedure is not prescribed, any agency desiring to explain its inability to participate in the use of a centralized service may do so through a letter to the Director of the Office of Management and Budget, with a copy to the Administrator of General Services.

[42 FR 35853, July 12, 1977]

§ 101-5.105 Operation of the centralized facility.

(a) GSA will continually appraise the operation of centralized facilities to insure their continued justification in terms of economy and efficiency. Centralized services provided pursuant to this regulation may be discontinued or curtailed if no actual savings or operating improvements are realized after a minimum operating period of one year. Occupying agencies will be consulted regarding the timing of curtailment or discontinuance of any centralized services and the heads of such agencies notified at least 60 days in advance of such action.

(b) Where mutual agreement is reached, an agency other than GSA may be designated by the Administrator of General Services to administer the centralized service.

(c) Arrangements with regard to financing will conform to the special requirements of each type of centralized service and to existing law. Normally, reimbursement will be made for the use of established services except where the cost is nominal or where reimbursement may not be practicable.

§ 101-5.106 Agency committees.

(a) *Establishment.* An occupying agency committee will be established by GSA to assist it, or such other agency as may be responsible, in the cooperative utilization of the centralized services, as defined in § 101-5.102(a), provided in a Federal building. Generally, such a committee will be established when the problems of administration and coordination necessitate a formal method of consultation and discussion among occupying agencies.

(b) *Membership.* Each occupying agency of a Federal building is entitled to membership on an agency committee. The chairman of each such committee shall be a GSA employee designated by the appropriate GSA Regional Administrator, except that if another agency has been designated to administer the centralized service, the chairman shall be an employee of such other agency as designated by competent authority within that agency.

(c) *Activities.* Agency committees shall be advisory in nature and shall be concerned with the effectiveness of centralized services in the building. Recommendations of an agency committee will be forwarded by the chairman to the appropriate GSA officials for consideration and decision.

(d) *Reports.* A résumé of the minutes of each meeting of an agency committee shall be furnished to each member of the committee and to the appropriate GSA Regional Administrator.

Subpart 101-5.2—Centralized Field Duplicating Services

SOURCE: 30 FR 4358, Apr. 3, 1965, unless otherwise noted.

§ 101-5.200 Scope of subpart.

This subpart states general guidelines and procedures for the establishment and operation of centralized field duplicating services on a reimbursable basis. These services may be provided in multioccupant Federal buildings.

§ 101-5.201 Applicability.

This subpart is applicable to all executive agencies which occupy space in or are prospective occupants of a multioccupant Federal building or complex located in the United States.

[41 FR 46296, Oct. 20, 1976]

§ 101-5.202 Types of centralized field duplicating services.

With due regard to the rules and regulations of the Joint Committee on Printing, the types of centralized field duplicating services made available by GSA to occupying agencies in a Federal building or complex will be as follows:

(a) Services will include stencil, spirit, and offset reproduction; photographic reproduction; photocopying, distribution, bindery services, and other closely related services as requested or required.

(b) Qualified specialists will be available for advice and guidance on publications management.

[30 FR 4358, Apr. 3, 1965, as amended at 41 FR 46296, Oct. 20, 1976]

§ 101-5.203 Economic feasibility of centralized field duplicating services.

§ 101-5.203-1 Scheduling of feasibility studies.

(a) Based on the available data on the proposed size, location, number of agencies scheduled for occupancy, and other factors pertinent to a proposed new Federal building, GSA will determine whether to provide for a centralized field duplicating plant in the space directive covering the new building. A feasibility study thereafter will be scheduled and coordinated with the Federal building program of the Public Buildings Service, GSA, to occur during the period following development of the prospectus and before development of final working drawings for the space directive. The final decision to provide centralized field duplicating services in a new Federal building will be subject to subsequent determination by the Administrator of General Services based upon the formal feasibility study.

(b) Feasibility studies may be initiated by GSA in existing Federal buildings. Such studies will be conducted in accordance with the rules prescribed in § 101-5.203.

[30 FR 4358, Apr. 3, 1965, as amended at 41 FR 46296, Oct. 20, 1976]

§ 101-5.203-2 Notification of feasibility studies.

The Administrator of General Services, or his authorized designee, will give at least 30 days' notice to the head of each executive agency that would be served by a proposed centralized field duplicating plant in accordance with § 101-5.104-1, and will request the designation of agency representatives, as provided in § 101-5.104-5.

§ 101-5.203-3 Initiation of feasibility studies.

Each feasibility study will be initiated with a general meeting of designated agency representatives, as provided in § 101-5.104-6.

§ 101-5.203-4 Duplicating Services—Individual Agency Survey.

Each agency covered by a feasibility study will be requested, through its designated local representative, to complete and furnish to the appropriate GSA regional office GSA Form 3300, Duplicating Services—Individual Agency Survey. When necessary, representatives of the GSA regional printing and distribution activity will be available to assist in completion of the GSA Form 3300. Copies of GSA Form 3300 will be furnished to the agencies by GSA regional offices at the time the request for completion is made.

[41 FR 46296, Oct. 20, 1976]

§ 101-5.203-5 Uniform space allowances.

The space requirements for printing, duplicating, and related equipment under individual agency use as compared with use in a centralized facility will be based upon uniform space allowances applied equally under both conditions.

[42 FR 35853, July 12, 1977]

§ 101-5.203-6 Pooling of equipment and personnel.

(a) In establishing centralized reproduction facilities in Federal buildings, GSA regional offices will make arrangements with participating agencies for the transfer of duplicating and related equipment for the centralized plant. Equipment for which there is no foreseeable need in the centralized plant will not be transferred to the plant but will be disposed of or transferred by the owning agency out of the building or complex to be served by the centralized facility. The duplicating equipment which is not used in the centralized plant will be held for a period of 6 months at which time it will be disposed of by GSA in accordance with applicable regulations governing the disposal of excess property. Copy-processing machines, as provided in paragraph (b) of this section, as well as reproduction, addressing, and automatic-copy processing equipment used in bona fide systems applications; e.g., a computer forms printer used in direct support of computer operations, may be retained by mutual agreement with using agencies.

(b) All copy-processing machines having a maximum speed of 25 copies a minute or less are exempted from transfer to the centralized plant, subject to the following conditions:

(1) No automatic document feeders, sorting mechanisms, or similar devices that encourage the use of the copier as a duplicating machine will be permitted, except in certified bona fide systems applications approved in advance by GSA.

(2) All purchase orders for new copying equipment or for continuation of existing equipment shall be submitted to the centralized facility manager for approval prior to release to the vendor.

(3) Exempted copiers, other than in bona fide systems applications provided in this § 101-5.203-6, are to be used for making not more than 20 copies of any one original. Requirements for more than 20 copies shall be submitted to the centralized facility for reproduction.

(4) The centralized facility manager shall periodically inspect agency copiers to ensure compliance with the terms of the exemption provisions. Following such inspections, action shall be taken first at the local level, then, if necessary, at the headquarters level, to promptly remove any unauthorized equipment, attachments, and devices not in consonance with these provisions.

(c) Personnel devoting over 50 percent of time to the duplicating activities of the affected agency will be identified for transfer to the operating agency upon establishment of a centralized plant, in accordance with the U.S. Civil Service Commission regulations relating to the transfer of functions. Agencies are also expected to transfer personnel ceiling to the operating agency for employees so transferred. In the event of later disestablishment of the centralized facility or substantial reduction in operations thereof, personnel ceiling will be returned to the agencies from which originally received.

(d) GSA will not make available to occupant agencies space for duplicating equipment, electrical outlets, or other services for such equipment in Federal buildings where use of such equipment would duplicate the services provided by the centralized plant unless sufficient justification and approval of the GSA regional printing and distribution activity are submitted with Standard Form 81, Request for Space, to the appropriate regional Director, Space Management Division, PBS, for approval.

[41 FR 46296, Oct. 20, 1976]

§ 101-5.203-7 Determination of feasibility.

The Administrator of General Services will determine the economic feasibility of each proposed centralized field duplicating plant in accordance with § 101-5.104-7. The Director of the Office of Management and Budget and the head of each affected agency will be advised of the Administrator's determination to establish a centralized plant.

[41 FR 46296, Oct. 20, 1976]

§ 101-5.204 Operation of centralized field duplicating plants.

§ 101-5.204-1 Continuity of service.

Each new centralized field duplicating plant will be established in sufficient time to assure occupants moving into the building that there will be no interruption of duplicating service in support of their program activities.

§ 101-5.204-2 Announcement of centralized services.

The appropriate GSA regional office will announce the availability of a centralized field duplicating plant approximately 90 days in advance of its activation, including:

(a) The date service will be available;

(b) The services which will be furnished, including technical assistance on reproduction problems;

(c) A current price schedule;

(d) Procedures for obtaining service; and

(e) Billing procedures.

[30 FR 4358, Apr. 3, 1965, as amended at 33 FR 3228, Feb. 21, 1968]

§ 101-5.204-3 Appraisal of operations.

(a) The appropriate GSA regional office will appraise continually the operation of each centralized field duplicating plant. Proposals to expand, modify, or discontinue a centralized plant shall be made to the appropriate authorities in the Central Office and must be supported by all pertinent information.

(b) The Administrator of General Services will give a minimum of 90 days' notice to the heads of agencies concerned before any action to curtail or discontinue centralized services is taken.

§ 101-5.205 Designation of other agencies to operate plants.

[30 FR 17165, Dec. 31, 1965]

§ 101-5.205-1 General.

The Administrator of General Services, in accordance with § 101-5.105(b), may designate an agency other than GSA to operate a centralized field duplicating plant. Such designation will be made only by mutual agreement with the agency head concerned.

[30 FR 17166, Dec. 31, 1965]

§ 101-5.205-2 Prerequisites to designation of other agencies.

The following conditions are to be met by an agency designated by GSA to operate a centralized field duplicating plant:

(a) Generally, prices charged to Government agencies using the centralized field duplicating service should be no higher for identical services than those specified on the currently effective nationwide uniform General Services Administration Reproduction Services Price Schedule. In special circumstances, deviations from the Price Schedule may be developed jointly by GSA and the designated agency.

(b) The designated agency shall accept responsibility for implementing the determination of the Administrator of General Services to establish a centralized duplicating plant, issued in accordance with §§ 101-5.104-7 and 101-5.203-7, including the provisions for transfer of excess equipment and other procedures and conditions specified in that determination. Necessary deviations from the determination may be developed jointly by GSA and the designated agency.

[30 FR 17166, Dec. 31, 1965, as amended at 41 FR 46296, Oct. 20, 1976]

§ 101-5.205-3 Actions prior to operation of plant.

The following actions are to be taken by an agency designated by GSA to operate a centralized field duplicating plant prior to operations of such plant:

(a) The designated agency shall assist the appropriate GSA regional office in the determination of firm space needs, including any special requirements. Space needs will be furnished by the GSA regional Customer Service and Support Division (regional Printing and Distribution Division, Region 3) FSS, to the Public Buildings Service, GSA, before preparation of final working drawings for the Federal building in which the plant is to be located.

(b) Arrangements shall be made by the designated agency, in cooperation with GSA, for the pooling of equipment and the necessary absorption of those employees of affected agencies engaged in duplicating work, as prescribed in § 101-5.203-6.

(c) After coordination with the designated operating agency to obtain its current price schedule, procedures for obtaining service, and billing procedures, GSA will announce the availability of the centralized field duplicating plant in the manner prescribed in § 101-5.204-2.

[30 FR 17166, Dec. 31, 1965, as amended at 33 FR 3228, Feb. 21, 1968; 41 FR 46296, Oct. 20, 1976]

§ 101-5.205-4 Plant inspections and customer evaluations.

Periodic plant inspections and customer evaluations will be performed jointly by GSA and the designated agency in order to appraise the continuing effectiveness of the centralized facility.

[30 FR 17166, Dec. 31, 1965]

Subpart 101-5.3—Federal Employee Health Services

AUTHORITY: Ch. 865, 60 Stat. 903; 5 U.S.C. 7901.

SOURCE: 30 FR 12883, Oct. 9, 1965, unless otherwise noted.

§ 101-5.300 Scope of subpart.

This Subpart 101-5.3 states the objective, guiding principles, criteria, and general procedures in connection with the establishment and operation of Federal employee health services in buildings managed by GSA.

§ 101-5.301 Applicability.

This Subpart 101-5.3 is applicable to all Federal agencies which occupy space in or are prospective occupying agencies of a building or group of adjoining buildings managed by GSA.

§ 101-5.302 Objective.

It is the objective of GSA to provide or arrange for appropriate health service programs in all Government-owned and leased buildings, or groups of adjoining buildings, which it manages where the building population warrants, where other Federal medical facilities are not available, and, where the number of the occupying agencies indicating a willingness to participate in such a program on a reimbursable basis makes it financially feasible.

§ 101-5.303 Guiding principles.

The following principles will control the scope of the health services to be provided in keeping with the objective:

(a) Employees who work in groups of 300 or more, counting employees of all departments or agencies who are scheduled to be on duty at one time in the same building or group of buildings in the same locality will constitute the minimum number of employees required to warrant the establishment of a health service of a scope specified in § 101-5.304.

(b) As an exception to paragraph (a) of this section, health services of the scope specified in §101-5.304 may be provided for employees who work in groups of less than 300 where the employing department or agency determines that working conditions involving unusual health risks warrant such provision.

(c) Treatment and medical care in performance-of-duty cases will be provided to employees as set forth in the Federal Employees' Compensation Act (5 U.S.C. 751 et seq.).

(d) Reimbursable costs for providing health services will be based on an operating budget which is a summary of all costs required to operate the health service. The reimbursement cost is prorated to participating agencies by means of a per capital formula computed by dividing the operating budget of the health service by the total number of employees sponsored for service. The size of the Federal population served, the compensation of the employees of the health unit, and other factors of medical economics prevalent in the area are factors which affect the local reimbursement cost. Further, in appropriate cases where more than one health unit is servicing employees housed in the same general locality, costs may be equalized by combining the operating budgets of all such units and dividing the total of the operating budgets by the number of employees sponsored. Special industrial conditions or othe abnormal health or accident risk environments may increase the per capita cost.

[30 FR 12883, Oct. 9, 1965, as amended at 35 FR 6651, Apr. 25, 1970]

§ 101-5.304 Type of occupational health services.

The type of occupational health services made available to occupying agencies will be as follows:

(a) Emergency diagnosis and first treatment of injury or illness that become necessary during working hours and that are within the competence of the professional staff and facilities of the health service unit, whether or not such injury was sustained by the employee while in the performance of duty or whether or not such illness was caused by his employment. In cases where the necessary first treatment is outside the competence of the health service staff and facilites, conveyance of the employee to a nearby physician or suitable community medical facility may be provided at Government expense at the request of, or on behalf of, the employee.

(b) Preemployment examinations of persons selected for appointment.

(c) Such inservice examinations of employees as the participating agency determines to be necessary, such as voluntary employee health maintenance examinations which agencies may request for selected employees. Such examinations may be offered on a limited formula plan to all participating agencies when the resources of the health service staff and facilities will permit. Alternatively, when agencies are required to limit the cost of an occupational health services program, the provision of inservice examinations may be provided to selected employees of individual agencies and reimbursed on an individual basis.

(d) Administration, in the discretion of the responsible health service unit physician, of treatments and medications (1) furnished by the employee and prescribed in writing by his personal physician as reasonably necessary to maintain the employee at work, and (2) prescribed by a physician providing medical care in performance-of-duty injury or illness cases under the Federal Employees' Compensation Act.

(e) Preventive services within the competence of the professional staff (1) to appraise and report work environment health hazards as an aid in preventing and controlling health risks; (2) to provide health education to encourage employees to maintain personal health; and (3) to provide specific disease screening examinations and immunizations.

(f) In addition, employees may be referred, upon their request, to private physicians, dentists, and other community health resources.

[30 FR 12883, Oct. 9, 1965, as amended at 35 FR 6651, Apr. 25, 1970]

§ 101-5.305 Agency participation.

At the time the space requirements for a building or a group of adjoining buildings are developed by GSA, the prospective occupying agencies will be canvassed by GSA to determine if they wish to participate in the occupational health services program. Each agency desiring to participate in the program will be requested to furnish GSA with a written commitment, signed by an authorized official, that it is prepared to reimburse GSA, or such other agency as is designated pursuant to § 101-5.105(b), on a yearly per capita basis for each of its employees housed in the building or buildings covered by the program.

§ 101-5.306 Economic feasibility.

(a) The studies by GSA which lead to the development of space requirements and the determinations made as the result thereof will constitute the feasibility studies and the Administrator's determination contemplated by § 101-5.104.

(b) Each determination to provide health services will be governed by the principles stated in § 101-5.303 and will be in consonance with the general standards and guidelines furnished Federal agencies by the Public Health Service of the Department of Health, Education, and Welfare.

§ 101-5.307 Public Health Service.

(a) The only authorized contact point for assistance of and consultation with the Public Health Service is the Federal Employee Health Programs, Division of Hospitals, Public Health Service, Washington, D.C. 20201. Other Federal agencies may be designated by the GSA Regional Administrator, pursuant to § 101-5.105(b) to operate occupational health services. Designated agencies should contact the Public Health Service directly on all matters dealing with the establishment and operation of these services.

(b) Public Health Service should be consulted by the designated agency on such matters as types, amounts, and approximate cost of necessary equipment; the scope of the services to be provided if it is affected by the amount of space and number of building occupants; types and amounts of supplies, materials, medicines, etc., which should be stocked; and the approximate cost of personnel staffing in cases where this method of operation is chosen, etc. PHS should also be asked to develop and monitor standards under which each health unit would be operated.

Subparts 101-5.4—101-5.48 [Reserved]

Subpart 101-5.49—Forms, Reports, and Instructions

§ 101-5.4900 Scope of subpart.

This subpart contains forms, reports, and related instructions used in connection with the regulations on centralized services in Federal buildings prescribed in this Part 101-5.

[30 FR 4359, Apr. 3, 1965]

PART 101-6—MISCELLANEOUS REGULATIONS

Sec.
101-6.000 Scope of part.

Subpart 101-6.1—Guidelines for Agency Implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646

Sec.
101-6.100 Scope of subpart.
101-6.101 General.
101-6.101-1 Relocation Assistance Implementation Committee (RAIC).
101-6.101-2 Federal Regional Council (FRC) Uniform Relocation and Real Property Acquisition Coordination.
101-6.101-3 General considerations.
101-6.101-4 Applicability.
101-6.102 Definitions.
101-6.102-1 Applicability.
101-6.102-2 Comparable replacement dwelling.
101-6.102-3 Decent, safe, and sanitary housing.
101-6.102-4 Economic rent.
101-6.102-5 Incidental expenses.
101-6.102-6 Initiation of negotiations.
101-6.102-7 Interest payment.
101-6.102-8 Net earnings.
101-6.102-9 The Act.
101-6.102-10 Displacing agency.
101-6.102-11 Dwelling.
101-6.102-12 Family.
101-6.102-13 Financial means.
101-6.102-14 Owner.
101-6.103 Assurance of adequate replacement housing prior to displacement.
101-6.103-1 Assurance of availability.
101-6.103-2 Housing provided as a last resort.
101-6.103-3 Loans for planning and preliminary expenses.
101-6.104 Moving and related expenses.
101-6.104-1 Eligibility.
101-6.104-2 Actual reasonable expenses in moving.
101-6.104-3 Nonallowable moving expenses and losses.
101-6.104-4 Expenses in searching for replacement business or farm.
101-6.104-5 Actual direct losses by business or farm operation.
101-6.105 Payments in lieu of moving and related expenses.
101-6.105-1 Dwellings—schedules.
101-6.105-2 Businesses—eligibility.
101-6.105-3 Farms.
101-6.105-4 Nonprofit organizations.
101-6.105-5 Net earnings.
101-6.105-6 Amount of business fixed payment.
101-6.106 Replacement housing payment for homeowners.
101-6.106-1 Eligibility.
101-6.106-2 Comparable replacement dwelling.

Sec.
101-6.106-3 Computation of replacement housing payment.
101-6.106-4 Mortgage insurance.
101-6.106-5 Format for computation of interest payment; Development of Monthly Payment Figures.
101-6.107 Replacement housing payments for tenants and certain others.
101-6.107-1 Eligibility.
101-6.107-2 Computation of replacement housing payments for displaced tenants.
101-6.107-3 Computation of replacement housing payments for certain others.
101-6.108 Relocation Assistance Advisory Services.
101-6.108-1 Relocation assistance advisory program.
101-6.108-2 Coordination of planned relocation activities.
101-6.108-3 Contracting for relocation services.
101-6.108-4 General contacts.
101-6.109 Federally assisted programs.
101-6.109-1 Assurances.
101-6.109-2 Administration of relocation assistance programs.
101-6.110 Annual report. [Reserved]
101-6.111 Uniform real property acquisition policy.
101-6.111-1 Applicability.
101-6.111-2 Acquisition procedures.
101-6.111-3 Appraisal standards.
101-6.111-4 Notice to move.
101-6.111-5 Federally assisted programs.
101-6.112 Administrative review.
101-6.112-1 Procedures.

Subpart 101-6.2—Nondiscrimination in Programs Receiving Federal Financial Assistance

101-6.201 Scope of subpart.
101-6.202 Purpose.
101-6.203 Application of subpart.
101-6.204 Discrimination prohibited.
101-6.204-1 General.
101-6.204-2 Specific discriminatory actions prohibited.
101-6.204-3 Special programs.
101-6.205 Assurances required.
101-6.205-1 General.
101-6.205-2 Continuing State programs.
101-6.205-3 Elementary and secondary schools.
101-6.205-4 Applicability of assurances.
101-6.206 Illustrative applications.
101-6.207—101-6.208 [Reserved]
101-6.209 Compliance information.
101-6.209-1 Cooperation and assistance.
101-6.209-2 Compliance reports.
101-6.209-3 Access to sources of information.
Sec.
101-6.209-4 Information to beneficiaries and participants.
101-6.210 Conduct of investigations.
101-6.210-1 Periodic compliance reviews.
101-6.210-2 Complaints.
101-6.210-3 Investigations.
101-6.210-4 Resolution of matters.
101-6.210-5 Intimidatory or retaliatory acts prohibited.
101-6.211 Procedure for effecting compliance.
101-6.211-1 General.
101-6.211-2 Noncompliance with § 101-6.205.
101-6.211-3 Termination of or refusal to grant or to continue Federal financial assistance.
101-6.211-4 Other means authorized by law.
101-6.212 Hearings.
101-6.212-1 Opportunity for hearings.
101-6.212-2 Time and place of hearing.
101-6.212-3 Right to counsel.
101-6.212-4 Procedures, evidence, and record.
101-6.212-5 Consolidated or joint hearings.
101-6.213 Decisions and notices.
101-6.213-1 Decision by person other than the responsible GSA official.
101-6.213-2 Decisions on record or review by the responsible GSA official.
101-6.213-3 Decisions on record where a hearing is waived.
101-6.213-4 Rulings required.
101-6.213-5 Approval by Administrator.
101-6.213-6 Content of orders.
101-6.213-7 Post termination proceedings.
101-6.214 Judicial review.
101-6.215 Effect on other regulations; forms and instructions.
101-6.215-1 Effect on other regulations.
101-6.215-2 Forms and instructions.
101-6.215-3 Supervision and coordination.
101-6.216 Definitions.
101-6.217 Laws authorizing Federal financial assistance for programs to which this subpart applies.

Subparts 101-6.3—101-6.48 [Reserved]

Subpart 101-6.49—Illustrations

101-6.4900 Scope of subpart.
101-6.4901 [Reserved]
101-6.4902 Format of certification required for budget submissions of estimates of obligations in excess of $100,000 for acquisitions of real and related personal property.

§ 101-6.000 Scope of part.

This part sets forth miscellaneous regulations regarding Federal Property Management Regulations matters which do not come within the scope of any other subchapter of Chapter 101.

(5 U.S.C. 5724, and E.O. 11012, 27 FR 2983; 3 CFR, 1959-1963 Comp., p. 591)

[29 FR 15972, Dec. 1, 1964]

Subpart 101-6.1—Guidelines for Agency Implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Public Law 91-646

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); Executive Order 11717 and President's Memorandum of September 6, 1973, to the heads of departments and agencies, Subject: The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

SOURCE: 42 FR 14098, Mar. 15, 1977, unless otherwise noted.

§ 101-6.100 Scope of subpart.

This subpart applies to all programs or projects of a Federal agency which involve the acquisition of real property or the displacement of people, businesses, or farm operations. The subpart also applies to those federally assisted programs or projects conducted by a State agency, as the term is defined in the Act, which involve the acquisition of real property or cause the displacement of people, businesses, or farm operations. The geographical coverage includes the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territorial possession of the United States, the Trust Territory of the Pacific Islands, and any political subdivision thereof.

§ 101-6.101 General.

(a) The guidelines in this subpart are to assist Federal agencies in developing regulations and procedures to implement the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, hereinafter referred to as the Act, and to ensure uniform, fair, and equitable policies for the acquisition of real property and treatment of persons displaced by Federal and federally assisted programs.

(b) The guidelines in this subpart are limited to those provisions of the Act identified by the interagency task force appointed in accordance with the President's memorandum of January 4, 1971. They also address those problem areas considered by the Relocation Assistance Implementation Committee (RAIC) since the issuance of OMB Circular A-103, May 1, 1972. In the event of any conflict between these guidelines and the provisions of the Act, or any other applicable law, the statutory provisions are controlling.

§ 101-6.101-1 Relocation Assistance Implementation Committee (RAIC).

(a) *Background.* (1) To promote the uniform and effective administration of relocation assistance and real property acquisition programs, the Act authorizes and directs the heads of Federal agencies to consult together on the establishment of regulations and procedures for the administration of such programs.

(2) To achieve the uniformity required by the Act, the President, by memorandum of January 4, 1971, directed the Office of Management and Budget to form a Relocation Assistance Advisory Committee. The Relocation Assistance Advisory Committee was composed of representatives of the major Federal agencies responsible for the administration of programs involving the displacement of individuals, businesses, and farms.

(3) Following its initial establishment within the Office of Management and Budget, the name of the Relocation Assistance Advisory Committee was changed to Relocation Assistance Implementation Committee. The Committee name change therefore appropriately reflects its role.

(4) Pursuant to Executive Order 11717 and the President's statement of September 6, 1973, the functions and chairmanship of the Relocation Assistance Implementation Committee were transferred from the Office of Management and Budget to the General Services Administration.

(b) *Membership and functions.* (1) RAIC serves as the official forum at the national level where duly appointed representatives of several major Federal departments consult together on the Government's real property acquisition and relocation programs. Represented on RAIC are the Departments of Agriculture; Defense; Health, Education, and Welfare; Housing and Urban Development; Interior; Justice; Transportation; and the General Services Administration. The United States Postal Service also participates in activities of the RAIC. The Administrator of General Services or his designee is the Chairman of the RAIC and he may invite other Federal agencies to participate as appropriate.

(2) RAIC is responsible for promoting the underlying purposes of the Act and for ensuring national uniformity, to the extent practicable, among Federal agencies with respect to real property acquisition and relocation assistance programs. The guidelines in this subpart were prepared by RAIC and reflect the collective experience of the member agencies.

(3) In carrying out its responsibilities RAIC makes recommendations to the General Services Administration regarding:

(i) Revisions Federal agencies should make in their regulations and procedures to ensure national uniformity;

(ii) Revisions to be made to the guidelines to assure compliance with the intent and spirit of the Act; and

(iii) Need for new legislation.

(c) *Liaison official for agencies not represented on the committee.* Each agency that is responsible for the acquisition of real property or displacement of persons, businesses, or farm operations, and is not represented on the Committee shall designate an individual to serve as liaison to coordinate the agency's relocation activities with the General Services Administration. The name of the designee and any changes in designations shall be submitted to the Office of Space Planning and Management, General Services Administration (PR), Washington, D.C. 20405.

§ 101-6.101-2 Federal Regional Council (FRC) Uniform Relocation Assistance and Real Property Acquisition Coordination.

(a) *Formation and organization.* (1) The chairmen of the Federal Regional Councils have been requested to ask council members to designate an agency representative who will be responsible for coordination of the agency's activities in the region for the implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. Agencies such as GSA and others having relocation assistance and real property acquisition programs, but who are not represented on the Federal Regional Councils, should be asked to provide designees also.

(2) The specific organization, structure, and procedures governing regional coordinating mechanisms (e.g., task force) shall be determined by each FRC but shall be consistent with normal FRC guidelines on supervision of interagency coordinating committees as promulgated by the Office of Management and Budget. Each FRC should, however, designate a lead staff member to ensure continuity and a focal point for coordination with agencies in the field and in Washington, D.C. Copies of periodic reports to the FRC Chairman should also be forwarded to the Chairman of the RAIC Working Group, Office of Space Planning and Management, General Services Administration, in Washington, D.C., for information. (Mailing address: General Services Administration (PR), Washington, D.C. 20405.)

(b) *Objectives and responsibilities.* The prime objective of the FRC will be to provide an umbrella for regional coordination of relocation assistance and real property acquisition programs among concerned Federal and federally assisted agencies. The FRC should undertake such programs as necessary to ensure continuing coordination and information sharing among the various Federal, State, and local agencies concerned with relocation assistance and should:

(1) Ensure effective coordination among Federal agencies in implementing real property acquisiton and relocation assistance policies and programs within the region on a consistent and uniform basis.

(2) Ensure effective coordination between Federal agencies and State and local Government officials concerned with relocation assistance and real property acquisition.

80-141 O—81——4

(3) Provide appropriate training/orientation programs for Federal, State, and local officials responsible for relocation assistance and real property acquisition as needed.

(4) Resolve in the field to the extent feasible and practical, conflicts and inconsistencies identified in the implementation of the guidelines and related relocation assistance and real property acquisition policies. Those concerning agency policy matters which cannot be resolved in the field will be referred to GSA through its Under Secretaries' Group Representative for appropriate RAIC action by the Chairman with a copy to OMB.

§ 101-6.101-3 General considerations.

(a) In developing regulations and procedures under the Act and this subpart, agencies should consider:

(1) House Report No. 91-1656 of December 2, 1970, a report to accompany S.1, Committee on Public Works, House of Representatives, 91st Congress, 2nd Session; and

(2) Provisions of other applicable law, including Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, and good faith and reasonableness.

(b) The Act shall be applied and administered to promote its underlying purposes and policies.

(c) Agencies shall instruct officials responsible for programs under this Act that:

(1) A written notice of displacement must be given to each individual, family business, or farm operation to be displaced. The notice shall be served personally or by certified (or registered) first-class mail;

(2) In order to qualify for benefits under Title II of the Act as a displaced person, either of two conditions must be fulfilled.

(i) The person must have moved (or moved his personal property) as a result of the receipt of a written notice to vacate which may have been given before or after initiation of negotiations for acquisition of the property as prescribed by regulations issued by the head of the Federal agency (When negotiations are initiated prior to issuance of a written notice, all persons contacted by the negotiating agency should be advised that the benefits of the Act are available only when the person moves subsequent to receipt of a written notice); or

(ii) The subject real property must in fact have been acquired, and the person must have moved as a result of its acquisition (except in those instances covered by sections 217 and 219 of the Act);

(3) Certain of the benefits provided by Title II of the Act are available as follows:

(i) Whenever the acquisition of, or notice to move from, real property used for a business or farm operation causes any person to move from other real property used for his dwelling or to move his personal property from such other real property, such person may receive the benefits provided by sections 202 (a) and (b) and 205 of the Act; and

(ii) If the head of the displacing agency determines that any person occupying property immediately adjacent to the real property acquired is caused substantial economic injury because of the acquisition, he may offer such person relocation advisory services under section 205(c) of the Act;

(4) For real property acquisitions under Federal law, contracts or options to purchase real property shall not incorporate provisions for making payments for relocation costs and related items in Title II of the Act (Appraisers shall not give cosideration to or include in their real property appraisals any allowances for the benefits provided by Title II. In the event of condemnation with a declaration of taking, the estimated compensation shall be determined solely on the basis of the appraised value of the real property with no consideration being given to or reference contained therein to the payments to be made under Title II of the Act.);

(5) Agency regulations shall provide that applications for benefits under the Act are to be made within 18 months from the date on which the displaced person moves from the real property acquired or to be acquired; or the date on which the displacing agency makes final payment of all costs of that real property, whichever is the later date (The head of an

agency may extend this period upon a proper showing of good cause.); and

(6) The provisions of the Act apply to the acquisition of all real property for, and the relocation of all persons displaced by, Federal programs and projects and programs and projects undertaken by State agencies which receive Federal financial assistance for all or part of the cost. It is immaterial whether the real property is acquired by a Federal or State agency or whether Federal funds contribute to the cost of the real property.

§ 101-6.101-4 Applicability.

(a) Departments and agencies with programs that will result in the acquisition of real property, the displacement of persons, or both, are urged to promptly revise or amend their regulations and procedures consistent with the guidelines in this subpart. A copy of the revised regulations and a copy of each agency's procedures pertaining to Title II and III of the Act shall be furnished to the Office of Space Planning and Management, General Services Administration, when they are issued. Copies of subsequent revisions to each agency's regulations and procedures shall also be furnished. (Mailing address: Geneal Services Administration (PR), Washington, D.C. 20405.)

(b) The head of each Federal agency shall provide for periodic review of all Federal and federally assisted programs to ensure compliance with the provisions of Titles II and III of the Act.

(c) The head of each Federal agency shall make available to the public full information concerning the agency's relocation programs. He shall ensure that persons to be displaced are fully informed at the earliest possible time of such matters as available relocation payments and assistance; the specific plans and procedures for ensuring that suitable replacement housing will be available for homeowners and tenants in advance of displacement; the eligibility requirements and procedures for obtaining such payments and assistance; and the right of administrative review by the head of the agency concerned, as provided by § 101-6.112.

§ 101-6.102 Definitions.

§ 101-6.102-1 Applicability.

The regulations of all Federal agencies should conform with the definitions contained in the Act and this subpart. These definitions are limited to the implementation of the Act. The head of a Federal agency may expand these definitions to ensure greater clarity and the successful implementation of his programs; however, such modifications shall not result in a deviation in concept from these definitions.

§ 101-6.102-2 Comparable replacement dwelling.

A comparable replacement dwelling is one which is decent, safe, and sanitary, and:

(a) Functionally equivalent and substantially the same as the acquired dwelling, but not excluding newly constructed housing;

(b) Adequate in size to meet the needs of the displaced family or individual. (However, at the option of the displaced person, a replacement dwelling may exceed his needs when the replacement dwelling has the same number of rooms or the equivalent square footage as the dwelling from which he was displaced.);

(c) Open to all persons regardless of race, color, religion, or national origin, consistent with the requirement of the Civil Rights Act of 1964 and Title VIII of the Civil Rights Act of 1968;

(d) Located in an area not generally less desirable than the one in which the acquired dwelling is located with respect to:

(1) Neighborhood conditions, including but not limited to municipal services and other environmental factors;

(2) Public utilities; and

(3) Public and commercial facilities;

(e) Reasonably accessible to the displaced person's place of employment or potential place of employment;

(f) Within the financial means of the displaced family or individual; and

(g) Available on the market to the displaced person. (See § 101-6.106-2.)

§ 101-6.102-3 Decent, safe, and sanitary housing.

A decent, safe, and sanitary dwelling is one which is found to be in sound, clean and weather-tight condition, and which meets local housing codes. The following criteria should be used in determining if a dwelling unit is decent, safe, and sanitary. Adjustments may be made only in the cases of unusual circumstances or in unique geographic areas, as determined by the head of the Federal agency.

(a) *Housekeeping unit.* A housekeeping unit must include a kitchen with fully usable sink; a cooking stove, or connections for same; a separate complete bathroom; hot and cold running water in both the bathroom and kitchen; an adequate and safe wiring system for lighting and other electrical services; and heating as required by climatic conditions and local codes.

(b) *Nonhousekeeping unit.* A nonhousekeeping unit is one which meets local code standards for boarding houses, hotels, or other congregate living. If local codes do not include requirements relating to space and sanitary facilities, standards will be subject to the approval of the head of the Federal agency.

(c) *Occupancy standards.* Occupancy standards for replacement housing shall comply with Federal agency approved occupancy requirements or shall comply with local codes.

(d) *Absence or inadequacy of local standards.* In those instances in which there is no local housing code, a local housing code does not contain certain minimum standards, or the standards are inadequate, the head of the Federal agency may establish the standards.

§ 101-6.102-4 Economic rent.

For purposes of this subpart, economic rent is defined as the amount of rent the displaced tenant would have had to pay for a comparable dwelling unit in an area similar to the neighborhood in which the dwelling unit to be acquired is located. (See § 101-6.107-2.)

§ 101-6.102-5 Incidental expenses.

(a) The amount, if any, necessary to reimburse a displaced person for reasonable costs incurred by him incident to the purchase of the replacement dwelling (but not including prepaid expenses) such as:

(1) Legal, closing, and related costs including title search, preparing conveyance instruments, notary fees, surveys, preparing plats, and charges incident to recordation;

(2) Lenders', FHA, or VA, appraisal fees;

(3) FHA application fee;

(4) Certification of structural soundness when required by lender, FHA, or VA;

(5) Credit report;

(6) Title policies or abstracts of title;

(7) Escrow agent's fee; and

(8) State revenue stamps or sale or transfer taxes.

(b) No fee, cost, charge, or expense is reimbursable as an incidental expense which is determined to be a part of the finance charge under the Truth in Lending Act, Title I, Pub. L. 90-321, and Regulation "Z" (12 CFR Part 226) issued pursuant thereto by the Board of Governors of the Federal Reserve System. (See § 101-6.106-3.)

§ 101-6.102-6 Initiation of negotiations.

The term "initiation of negotiations" means the day on which the acquiring agency makes the first personal contact with the property owner or his representative and furnishes him with a written offer to purchase the real property. (See §§ 101-6.106-1 and 101-6.107-1.)

§ 101-6.102-7 Interest payment.

The amount, if any, necessary to compensate a displaced person for any increased interest costs, including points paid by the purchaser, if the acquired dwelling was encumbered by a bona fide mortgage. (See § 101-6.106-3.)

§ 101-6.102-8 Net earnings.

The term "average annual net earnings" as used in subsection 202(c) of the Act means one-half of any net earnings of the business or farm operation before Federal, State, and local income taxes, during the two taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired for such project, or during such other period as the head of the displacing agency determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such period. (See § 101-6.105-5.)

§ 101-6.102-9 The Act.

"The Act" means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646), approved January 2, 1971.

§ 101-6.102-10 Displacing agency.

"Displacing agency" means a Federal agency in the case of a direct Federal project, or a State agency, as defined in the Act, in the case of a project receiving Federal financial assistance whose project is causing the displacement of a person, business, or a farm operation.

§ 101-6.102-11 Dwelling.

"Dwelling" means the place of permanent or customary and usual abode of a person. It includes a single-family building; a one-family unit in a multifamily building; a unit of a condominium or cooperative housing project; any other residential unit, including a mobile home which is either considered to be real property under State law or cannot be moved without substantial damage or unreasonable cost or is not a decent, safe, and sanitary dwelling.

§ 101-6.102-12 Family.

A "family" means two or more individuals who are related by blood, adoption, marriage, or legal guardianship who live together as a family unit. However, upon appropriate determination by the head of the Federal agency, others who live together as a family unit may be treated as if they were a family for the purpose of determining benefits under Title II of the Act.

§ 101-6.102-13 Financial means.

For the purpose of determining financial means of families and individuals in accordance with section 205(c)(3) of the Act, a financial means test (ability to pay) must be made to satisfy the requirements set forth in § 101-6.106-2(f). In order to meet a financial means test, a determination should be made as to the displaced person's ability to afford the replacement dwelling. In making this determination, the average monthly rental or housing cost (e.g., monthly mortgage payments, insurance for the dwelling unit, property taxes and other reasonable recurring related expenses) which the displaced person will be required to pay, in general, should not exceed 25 percent of the monthly gross income or the present ratio of housing payments to the income of the displaced family or individual, including supplemental payments made by public agencies. The regulation of each Federal agency may provide for determinations that 25 percent of monthly gross income for housing costs or the present ratio of housing payment to the individual income is or is not excessive to the other needs of the displaced family or individual, such as food, clothing, childcare, medical expenses, etc. In these cases, the head of the Federal agency shall establish criteria for determining the financial means of the displaced family or individual.

§ 101-6.102-14 Owner.

"Owner" means a person who holds fee title, a life estate, a 99 year lease, or an interest in a cooperative housing project which includes the right of occupancy of a dwelling unit, or is the contract purchaser of any such estate or interest, or who is possessed of such other proprietary interest in the property acquired as, in the judgment of the head of the Federal agency, warrants consideration as ownership. In the case of one who has succeeded to any of the foregoing interests by devise, bequest, inheritance, or operation of law, the tenure of ownership, but not occupancy, of the succeeding owner shall include the tenure of the preceding owner.

§ 101-6.103 Assurance of adequate replacement housing prior to displacement.

§ 101-6.103-1 Assurance of availability.

(a) *Availability.* No Federal agency should proceed with any phase of a project or authorize a State agency to proceed with any phase of a project which will cause the displacement of any person until the Federal agency has determined, or received satisfactory assurances from the displacing State agency, that within a reasonable period of time prior to a displacement, there will be available on a basis consistent with the requirements of Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284), in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced, decent, safe, and sanitary dwellings, as described in § 101-6.102-3, equal in number to the number of, and available to, such displaced persons who require such dwellings and reasonably accessible to their places of employment.

(b) *Support.* The determination or assurances shall be based on a current survey and analysis of available replacement housing by the displacing agency. The survey and analysis must take into account the competing demands on available housing. (See § 101-6.108.)

(c) *Waiver.* Pursuant to section 205(c)(3) of the Act, the head of a Federal agency may prescribe by regulations those situations in which the assurances described in this § 101-6.103-1 may be waived. These waivers shall be limited only to emergency or other extraordinary situations in which immediate possession of real property is of crucial importance. Each waiver of assurance of replacement housing shall be supported by appropriate findings and a detemination of the necessity for the waiver.

§ 101-6.103-2 Housing provided as a last resort.

When it is determined that adequate replacement housing is not available and cannot otherwise be made available, the head of the Federal agency may take action or approve action by a State agency to develop replacement housing. Federal agencies taking or approving such action for replacement housing will be guided by the criteria and procedures issued by the Secretary of Housing and Urban Development (24 CFR Part 43, Subpart A) in accordance with the provision concerning section 206(a) of the Act in the President's memorandum of January 4, 1971. A State agency taking such action shall comply with the requirements and procedures of the Federal agency which provides the Federal financial assistance.

§ 101-6.103-3 Loans for planning and preliminary expenses.

Federal agencies will be guided by the criteria and procedures developed by the Secretary of Housing and Urban Development (24 CFR Part 43, Subpart B) when providing loans to eligible borrowers for planning and other preliminary expenses authorized under section 215 of the Act. A State agency providing such loans shall comply with the requirements and procedures of the Federal agency which provides the Federal financial assistance in accordance with the President's memorandum of January 4, 1971.

§ 101-6.104 Moving and related expenses.

§ 101-6.104-1 Eligibility.

(a) Any displaced person (including one who conducts a business or farm operation) is eligible to receive a payment for moving expenses. A person who lives on his business or farm property may be eligible for both moving and related expenses as a dwelling occupant in addition to being eligible for payments with respect to displacement from a business or farm operation.

(b) Any person who moves from real property or moves his personal property from real property, as a result of the acquisition of such real property in whole or part, or as a result of a written notice of the acquiring agency to vacate real property, or solely for the purposes of section 202 (a) and (b) of the Act as a result of the acquisition of, or a written notice of the acquiring agency to vacate, other real property on which such person conducts a farm or business, is eligible to receive a payment for moving expenses.

§ 101-6.104-2 Actual reasonable expenses in moving.

(a) *Allowable moving expenses.* (1) Transportation of individuals, families, and personal property from the acquired site to the replacement site, not to exceed a distance of 50 miles except where the displacing agency determines that relocation beyond this 50-mile area is justified;

(2) Packing and unpacking, crating and uncrating of personal property;

(3) Advertising for packing, crating, and transportation when the displacing agency determines that it is necessary;

(4) Storage of personal property for a period generally not to exceed 12 months when the displacing agency determines that storage is necessary in connection with relocation;

(5) Insurance premiums covering loss and damage of personal property while in storage or transit;

(6) Removal, reinstallation, reestablishment, including such modification as deemed necessary by the Federal agency of, and reconnection of utilities for, machinery, equipment, appliances, and other items, not acquired as real property. Prior to payment of any expenses for removal and reinstallation of such property, the displaced person shall be required to agree in writing that the property is personalty and that the displacing agency is released from any payment for the property;

(7) Property lost, stolen, or damaged (not caused by the fault or negligence of the displaced person, his agent or employees), in the process of moving, where insurance to cover such loss or damage is not available; and

(8) Other reasonable expenses determined to be allowable under regulations issued by the head of the Federal agency.

(b) *Limitations.* (1) If the displaced person accomplishes the move himself, the amount of payment shall not exceed the estimated cost of moving commercially, unless the head of the responsible Federal agency determines a greater amount is justified.

(2) If an item of personal property that is used in connection with any business or farm operation is not moved but is sold and promptly replaced with a comparable item, reimbursement shall not exceed the replacement cost minus the proceeds received from the sale, or the estimated cost of moving, whichever is less.

(3) If personal property that is used in connection with any business or farm operation to be moved is of low value and high bulk, and the cost of moving would be disproportionate in relation to the value in the judgment of the head of the Federal agency responsible for the program or project causing the displacement, the allowable reimbursement for the expense of moving the personal property shall not exceed the difference between the amount which would have been received for such item on liquidation and the cost of replacing the same with a comparable item available on the market. This provision will be applicable in the cases of moving of junk yards, stockpiled sand, gravel, minerals, metals, and similar items of personal property.

(4) If the cost of moving or relocating an outdoor advertising display or displays is determined to be equal to or in excess of the in-place value of the display, consideration should be given to acquiring the display or displays as a part of the real property, unless such an acquisition is prohibited by State law.

§ 101-6.104-3 Nonallowable moving expenses and losses.

(a) Additional expenses incurred because of living in a new location;

(b) Cost of moving structures or other improvements in which the displaced person reserved ownership except as otherwise provided by law;

(c) Improvements to the replacement site, except when required by law;

(d) Interest on loans to cover moving expenses.

(e) Loss of good will;

(f) Loss of profits;

(g) Loss of trained employees;

(h) Personal injury;

(i) Cost of preparing the application for moving and related expenses:

(j) Payment of search cost in connection with locating a replacement dwelling; and

(k) Such other items as the head of the Federal agency determines should be excluded.

§ 101-6.104-4 Expenses in searching for replacement business or farm.

(a) *Allowable.* (1) Actual travel costs;

(2) Extra costs for meals and lodging;

(3) Time spent in searching at the rate of the displaced person's salary or earnings, but not to exceed $10 per hour; and

(4) In the discretion of the displacing agency, necessary broker, real estate, or other professional fees to locate a replacement business or farm operation under circumstances prescribed in Federal agency regulations.

(b) *Limitation.* The total amount a displaced person may be paid for searching expenses may not exceed $500 unless the head of the Federal agency determines that a greater amount is justified because of the circumstances involved.

§ 101-6.104-5 Actual direct losses by business or farm operation.

If the displaced person does not move personal property, he shall be required to make a bona fide effort to sell it, and shall be reimbursed for the reasonable costs incurred.

(a) When the business or farm operation is discontinued, the displaced person is entitled to the difference between the fair market value of the personal property for continued use at its location prior to displacement and the sale proceeds, or the estimated costs of moving 50 miles, whichever is less.

(b) When the personal property is abandoned, the displaced person is entitled to payment for the fair market value of the property for continued use at its location prior to displacement or the estimated cost of moving 50 miles, whichever is less.

(c) The cost of removal of the personal property shall not be considered as an offsetting charge against other payments to the displaced person.

§ 101-6.105 Payments in lieu of moving and related expenses.

§ 101-6.105-1 Dwellings—schedules.

(a) Subsection 202(b) of the Act provides that at the option of the displaced person he may receive a moving expense allowance not to exceed $300 based on schedules established by each agency head. Moving allowance schedules maintained by the respective State highway departments shall be used as the basis for the agency's schedules. These schedules should provide for adequate reimbursement in every locality. The Federal Highway Administration will approve all such schedules on a current basis, and will make them available to displacing agencies upon request.

(b) Where there are no highway department schedules, the heads of the Federal agencies undertaking or providing Federal financial assistance to a project causing displacement in such areas shall cooperate in the development of a single moving expense schedule for the use of all displacing agencies.

(c) A displaced person who elects to receive a payment based on a schedule shall be paid under the schedule used in the jurisdiction in which the displacement occurs regardless of where he relocates.

§ 101-6.105-2 Businesses—eligibility.

(a) A person displaced from his business, as defined in subsection 101(7) (A), (B), and (C) of the Act, is eligible under subsection 202(c) of the Act to receive a fixed payment in lieu of moving and related expenses. Care must be exercised in each instance, however, to ensure that such payments are made only in connection with a bona fide business.

(b) A payment in lieu of actual reasonable moving expenses may be made under section 202(c) of the Act to the displaced owner of a business only if the local agency determines that, during the two taxable years prior to displacement, or during such other period as the head of the Federal agency determines to be more equitable, the business:

(1) Had average annual gross receipts of at least $2,000 in value; or

(2) Had average annual net earnings of at least $1,000 in value; or

(3) Contributed at least 33⅓ percent of the average gross annual income of the owner(s), including income from all sources, such as welfare.

If the application of the above criteria obviously creates an inequity in a given case, the head of the Federal agency may approve the use of other criteria as determined appropriate.

(c) Those businesses, described in subsection 101(7)(D) of the Act are not eligible under subsection 202(c) of the Act for a payment in lieu of moving and related expenses.

(d) Where a displaced person is displaced from his place of business, no payment shall be made under subsection 202(c) of the Act until after the head of the displacing agency determines that the business is not part of a commercial enterprise having at least one other establishment not being acquired, which is engaged in the same or similar business, and that the business cannot be relocated without a substantial loss of existing patronage. The determination of loss of existing patronage shall be made by the displacing agency only after consideration of all pertinent circumstances, including but not limited to the following factors:

(1) Type of business conducted by the displaced concern;

(2) Nature of the clientele of the displaced concern; and

(3) Relative importance of the present and proposed location to the displaced business and the availability of a suitable replacement location for the displaced person.

§ 101-6.105-3 Farms.

(a) *Eligibility.* A payment in lieu of actual reasonable moving expenses may be made to the displaced owner of a farm operation according to the criteria established for displaced owners of businesses. (See § 101-6.105-2.) Such a payment may be made to the displaced operator of a farm operation only if the acquiring agency determines that the farm operator has discontinued his entire farm operation at the present location or has relocated the entire farm operation.

(b) *Partial taking.* In the case of a partial taking, the operator will be considered to have been displaced from a farm operation if:

(1) The part taken met the definition of a farm operation prior to the taking; or

(2) The taking caused the operator to be displaced from the farm operation on the remaining land; or

(3) The taking caused such a substantial change in the nature of the existing farm operation as to constitute a displacement.

If the use of the above criteria obviously creates an inequity in a given case, the head of the Federal agency may approve the use of other criteria as determined appropriate.

§ 101-6.105-4 Nonprofit organizations.

If a nonprofit organization is displaced, no payment shall be made under subsection 202(c) of the Act until after the head of the Federal agency determines:

(a) That the nonprofit organization cannot be relocated without a substantial loss of its existing patronage (The term "existing patronage" as used in connection with nonprofit organizations includes the persons, community, or clientele served or affected by the activities of the nonprofit organization); and

(b) That the nonprofit organization is not part of a commercial enterprise having at least one other establishment not being acquired which is engaged in the same or similar activity.

§ 101-6.105-5 Net earnings.

The term "average annual net earnings" as used in subsection 202(c) of the Act means one-half of any net earnings of the business or farm operation before Federal, State, and local income taxes, during the two taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired for such project, or during such other period as the head of the displacing agency determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during such period. If a business or farm operation has no net earnings or has suffered losses during the period used to compute "average annual net earnings" it may nevertheless receive the $2,500 minimum payment authorized by § 101-6.105-6.

§ 101-6.105-6 Amount of business fixed payment.

The fixed payment to a person displaced from a farm operation or from his place of business, including nonprofit organizations, shall be in an amount equal to the average annual net earnings of the business or farm operation, except that such a payment shall not be less than $2,500 nor more than $10,000.

§ 101-6.106 Replacement housing payment for homeowners.

§ 101-6.106-1 Eligibility.

(a) A displaced owner-occupant is eligible for a replacement housing payment authorized by section 203(a) of the Act; not to exceed $15,000 if he meets both of the following requirements:

(1) Actually owned and occupied the acquired dwelling from which displaced for not less than 180 days prior to the initiation of negotiations for the property, or owned and occupied the property covered or qualified under section 217 of the Act for not less than 180 days prior to displacement (The term "initiation of negotiations" means the day on which the acquiring agency makes the first personal contact with the property owner or his representative and furnishes him with a written offer to purchase the real property.); and

(2) Purchases and occupies a replacement dwelling, which is decent, safe, and sanitary, not later than the end of the 1-year period beginning on the date on which he receives from the displacing agency the final payment of all costs of the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever is the later date.

(b) If a displaced owner-occupant of a dwelling is determined to be ineligible under this section, he may be eligible for a replacement housing payment under § 101-6.107.

§ 101-6.106-2 Comparable replacement dwelling.

For the purposes of rendering relocation assistance by making referrals for replacement housing and for computing the replacement housing payment, a comparable replacement dwelling is one which is decent, safe, and sanitary, and:

(a) Functionally equivalent and substantially the same as the acquired dwelling, but not excluding newly constructed housing;

(b) Adequate in size to meet the needs of the displaced family or individual. (However, at the option of the displaced person, a replacement dwelling may exceed his needs when the replacement dwelling has the same number of rooms or the equivalent square footage as the dwelling from which he was displaced.);

(c) Open to all persons regardless of race, color, religion, or national origin, consistent with the requirement of the Civil Rights Act of 1964 and Title VIII of the Civil Rights Act of 1968;

(d) Located in an area not generally less desirable than the one in which the acquired dwelling is located with respect to:

(1) Neighborhood conditions, including but not limited to municipal services and other environmental factors;

(2) Public utilities; and

(3) Public and commercial facilities;

(e) Reasonably accessible to the displaced person's place of employment or potential place of employment;

(f) Within the financial means of the displaced family or individual; and

(g) Available on the market to the displaced person.

If housing meeting the requirement of this section is not available on the market, the head of a displacing agency may, upon a proper finding of the need therefor, consider available housing exceeding these basic criteria.

§ 101-6.106-3 Computation of replacement housing payment.

The replacement housing payment of not more than $15,000 comprises the following:

(a) *Differential payment for replacement housing.* The head of the Federal agency may determine the amount which, if any, when added to the acquisition cost of the dwelling acquired by the displacing agency, is necessary to purchase a comparable replacement dwelling by either establishing a schedule or by using a comparative method. The relocatee is bound to the method selected for use by the displacing agency.

(1) *Schedule method.* The agency may establish a schedule of reasonable acquisition costs for comparable replacement dwellings of the various types of dwellings to be acquired and available on the private market. The schedule shall be based on a current market analysis sufficient to support determinations of the amount for each type of dwelling to be acquired. When more than one Federal agency is causing the displacement in a community or an area, the heads of the agencies concerned shall coordinate the establishment of the schedule for replacement housing payments.

(2) *Comparative method.* The agency may determine the price of a comparable replacement dwelling by selecting a dwelling or dwellings that are most representative of the dwelling unit acquired, are available to the displaced person, and meet the definition of comparable replacement dwellings. A single dwelling shall be used only when additional comparable dwellings are not available.

(3) *Alternate method.* The head of the displacing agency may develop criteria for computing replacement housing payments when neither the schedule method nor the comparative method is feasible. An alternate method proposed by a State agency should be subject to prior concurrence of the appropriate Federal agency.

(4) *Limitations.* The amount established as the differential payment for the replacement housing sets the upper limit of this payment.

(i) If the displaced person voluntarily purchases and occupies a decent, safe, and sanitary dwelling at a price less than the above, the comparable replacement housing payment shall be reduced to the amount required to pay the difference between the acquisition price of the acquired dwelling and the actual purchase price of the replacement dwelling.

(ii) If the displaced person voluntarily purchases and occupies a decent, safe, and sanitary dwelling at a price less than the acquisiton price of the acquired dwelling, no differential payment shall be made.

(b) *Interest payment.* The head of the Federal agency shall determine the amount, if any, necessary to compensate a displaced person for any increased interest costs, including points paid by the purchaser. Such amount shall be paid only if the acquired dwelling was encumbered by a bona fide mortgage. The following shall be considered:

(1) The payment shall be equal to the excess in the aggregate interest and other debt service costs of the amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the bona fide mortgage on the acquired dwelling, at the time of acquisition, over the remaining term of, the mortgage on the acquired dwelling, reduced to discounted present value.

(2) The discount rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located.

(3) A "bona fide mortgage" is one which was a valid lien on the acquired dwelling for not less than 180 days prior to the initiation of negotiations. All bona fide mortgages on the dwelling acquired by the displacing agency will be used to compute the increased interest cost portion of the replacement housing payment.

(4) The computation of the payment for increased interest costs will be based on the actual term of the new mortgage or the remaining term of the old mortgage, whichever is the lesser, and the computation will be based on the actual amount of the new mortgage or the amount of the old mortgage, whichever is the lesser.

(i) Seller's points are not to be included in the interest computation.

(ii) The actual interest rate of the new mortgage will be used in the computation.

(iii) Purchaser's points and/or loan origination fees will be added to the computed interest payment.

(5) However, the interest payment shall be based on the present value of the reasonable cost of the interest differential, including points paid by the purchaser, on the amount of the unpaid debt on the acquired dwelling for its remaining term.

(6) See Format for computation of interest payment at § 101-6.106-5.

(c) *Incidental expenses.* (1) The head of the Federal agency shall determine the amount, if any, necessary to reimburse a displaced person for reasonable costs incurred by him incident to the purchase of the replacement dwelling (but not including prepaid expenses) such as:

(i) Legal, closing, and related costs including title search, preparing conveyance instruments, notary fees, surveys, preparing plats, and charges incident to recordation;

(ii) Lenders', FHA, or VA, appraisal fees;

(iii) FHA application fee;

(iv) Certification of structural soundness when required by lender, FHA, or VA;

(v) Credit report;

(vi) Title policies or abstracts of title;

(vii) Escrow agent's fee; and

(viii) State revenue stamps or sale or transfer taxes.

(2) No fee, cost, charge, or expense is reimbursable as an incidental expense which is determined to be a part of the finance charge under the Truth in Lending Act, Title I, Pub. L. 90-321, and Regulation "Z" (12 CFR Part 226) issued pursuant thereto by the Board of Governors of the Federal Reserve System.

(d) *Case going through condemnation.* No property owner should be deprived of the earliest possible payment of the replacement housing amounts to which he is rightfully due. The following procedure shall be used on cases involving condemnation:

(1) An advance replacement housing payment can be computed and paid to a property owner if the determination of the acquisition price will be delayed pending the outcome of condemnation proceedings. The agency may make a provisional replacement housing payment to the displaced homeowner based on the agency's maximum offer for the property, providing the homeowner enters into an agreement with the agency that:

(i) Upon final determination of the condemnation proceedings, the replacement housing payment will be recomputed using the acquisition price determined by the court as compared to the actual price paid or the amount determined necessary to acquire a comparable, decent, safe, and sanitary dwelling; and

(ii) If the amount awarded in the condemnation proceedings as the fair market value of the property acquired plus the amount of the recomputed replacement housing payment exceeds the price paid for, or the acquiring agency's determined cost of a comparable dwelling, he will refund to the acquiring agency an amount equal to the amount of the excess. However, in no event shall he be required to refund more than the amount of the replacement housing payment advanced.

(2) If the property owner does not agree to such adjustment, the replacement housing payment shall be deferred until the case is finally adjudicated and computed on the basis of the final determination, using the award as the acquisition price.

§ 101-6.106-4 Mortgage insurance.

The head of any Federal agency administering Federal mortgage insurance programs may, upon application by a mortgagee, insure any mortgage (including advances during construction) on a comparable replacement dwelling executed by a displaced person assisted under this section, if the mortgage is eligible for insurance under any Federal law administered by the agency notwithstanding any requirements under the law relating to age, physical condition, or other personal characteristics of eligible mortgagors and may make commitments for the insurance of the mortgage prior to the date of execution of the mortgage.

§ 101-6.106-5 Format for computation of interest payment; development of monthly payment figures.

REQUIRED INFORMATION

1. Outstanding balance of mortgage on acquired dwelling .... $..........
2. Outstanding balance of mortgage on replacement dwelling .... $..........
3. Lesser of line 1 or line 2 .... $..........
4. Number of months remaining until last payment is due for mortgage on acquired dwelling .... $..........
5. Number of months remaining until last payment is due for mortgage on replacement dwelling .... $..........
6. Lesser of line 4 or line 5 .... $..........
7. Annual interest rate of mortgage on acquired dwelling (percent) .... $..........
8. Annual interest rate of mortgage on replacement dwelling (or, if it is lower, the prevailing annual interest rate currently charged by mortgage lending institutions in the general area in which the replacement dwelling is located) (percent) .... $..........
9. Prevailing annual interest rate paid on standard passbook savings accounts by commercial banks (percent) .... $..........
10. If applicable, any debt service costs on the loan on the replacement dwelling, such as points paid by the purchaser which are not reimbursable as an incidental expense .... $..........

DEVELOPMENT OF MONTHLY PAYMENT FIGURES

A. Monthly payment required to amortize a loan of $——— (Line 3) in ——— (Line 6) months at an annual interest rate of ——— (Line 7) percent .... $..........
B. Monthly payment required to amortize a loan of $——— (Line 3) in ——— (Line 6) months at an annual interest rate of ——— (Line 8) percent .... $..........
C. Monthly payment required to amortize a loan of $——— (Line 3) in ——— (Line 6) months at an annual interest rate of ——— (Line 9) percent .... $..........

CALCULATION OF INTEREST PAYMENT

Step 1 Subtract A from B:
  Monthly payment based on rate for replacement dwelling (B) .... $..........
  Monthly payment based on rate for acquired dwelling (A) .... −$..........
  Result (difference) .... $..........
Step 2 Divide result (difference) of step 1 by C (carry to 6 decimal places):
  Result (difference) from step 1 .... $..........
  Monthly payment based on savings rate (C) .... ÷$..........
  Result (quotient) ....
Step 3 Multiply outstanding balance of mortgage on acquired dwelling by result (quotient) of step 2:
  Outstanding Balance (from Line 3) .... $..........
  Result (quotient) of step 2 .... ×..........
  Result (product) .... $..........
Step 4 Add to result (product) of step 3 any debt service costs on the loan on the replacement dwelling:
  Result (product) of step 3, first mortgage .... $..........
  Result (product) of step 3, second mortgage [1] .... $..........
  Sum or difference, as applicable [1] .... $..........
  Add debt service costs on loan on replacement dwelling (Line 10) .... $..........
  Amount of interest payment .... $..........

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[1] If there is more than one outstanding mortgage on an acquired dwelling, the discounted value of each mortgage must be determined. To do this, a separate computation is made to each mortgage through step 3. A consolidated step 4 is then completed.

§ 101-6.107 Replacement housing payments for tenants and certain others.

§ 101-6.107-1 Eligibility.

(a) A displaced tenant or owner-occupant of a dwelling for less than 180 days is eligible for a replacement housing payment not to exceed $4,000, as authorized by section 204 of the Act if he actually occupied the dwelling for not less than 90 days prior to the initiation of negotiations for acquisition of the property or actually occupied the property covered or qualified under section 217 of the Act for not less than 90 days prior to displacement. The term "initiation of negotiations" means the day on which the acquiring agency makes the first personal contact with the property owner or his representative and furnishes him with a written offer to purchase the real property. Agencies' regulations shall provide that tenants and other persons occupying the property shall be advised when negotiations for the property are initiated with the owner thereof.

(b) An owner-occupant of a dwelling for not less than 180 days prior to the initiation of negotiations is eligible for a replacement housing payment as a tenant, as authorized by section 204 of the Act, when he rents a decent, safe, and sanitary replacement dwelling instead of purchasing and occupying a replacement decent, safe, and sanitary dwelling not later than the end of the 1-year period beginning on the date on which he receives from the displacing agency final payment, for all costs for the acquired dwelling, or on the date on which he moves from the acquired dwelling, whichever, is the later date.

§ 101-6.107-2 Computation of replacement housing payments for displaced tenants.

A displaced tenant is eligible for a rental replacement housing payment; or, if he purchases replacement housing within 1 year from displacement, he is eligible for a down payment, including expenses incidental to closing, not to exceed $4,000.

(a) *Rental replacement housing payment.* The head of the Federal agency involved may determine the amount necessary to rent a comparable replacement dwelling by either establishing a schedule or by using a comparative method.

(1) *Schedule method.* The agency may establish a rental schedule for renting comparable replacement dwellings as described in § 101-6.106-2 and which are available in the private market for the various types of dwellings to be acquired. The payment shall be computed by determining the amount necessary to rent a comparable replacement dwelling for 4 years (the average monthly cost from the schedule) and subtracting from that amount 48 times the average month's rent paid by the displaced tenant in the last 3 months prior to initiation of negotiation, if such rent was reasonable. Agency regulations may prescribe circumstances which may dictate the use of economic rent rather than actual rent paid by the displaced tenant. For purposes of this subpart, economic rent is defined as the amount of the rent the displaced tenant would have had to pay for a comparable dwelling unit in an area similar to the neighborhood in which the dwelling unit to be acquired is located. The schedule should be based on current analysis of the market to determine an amount for each type of dwelling required. When more than one Federal agency is causing the displacement in a community or an area, the agency heads shall cooperate in choosing the method for computing the replacement housing payment and may use uniform schedules of average rental housing in the community or area.

(2) *Comparative method.* The agency may determine the average month's rent by selecting one or more dwellings most representative of the dwelling unit acquired, which are available to the displaced person and meet the definition of comparable replacement dwellings as described in § 101-6.106-2. The payment should be computed by determining the amount necessary to rent a comparable replacement dwelling for 4 years and subtracting from such amount 48 times the average month's rent paid by the displaced tenant in the last 3 months prior to initiation of negotiations if the rent was reasonable. Agency regulations may prescribe circumstances which may dictate the use of economic rather than actual rent paid by the displaced tenant.

(3) *Exceptions.* The head of the Federal agency may establish the average month's rent paid by the displaced person by using more than 3 months if he deems it advisable. If rent is being paid to the displacing agency, economic rent shall be used in determining the amount of the payment to which the displaced tenant is entitled.

(4) *Alternate to paragraphs* (a) (1) and (2) *of this section.* When neither method is feasible, the head of the Federal agency shall develop criteria for computing the payment.

(5) *Limitation.* The amount of the rental replacement housing payment shall be computed by subtracting the economic rent of the acquired dwelling from the lesser of:

(i) The amount of rent actually paid for the replacement dwelling; or

(ii) The amount determined by the displacing agency as necessary to rent a comparable replacement dwelling.

(6) *Disbursement of rental replacement housing payment.* The head of the Federal agency shall develop procedures to implement section 204 of the Act to provide, within the $4,000 and 4-year limitations of that section,

a rental replacement housing payment that will enable the displacee to rent comparable, decent, safe, and sanitary housing. The amount of the rental payment under section 204(1) of the Act shall be determined and paid in a lump sum, except it shall be paid in installments if the displaced person so requests.

(b) *Purchases—replacement housing payment.* If the tenant elects to purchase instead of renting, the payment shall be computed by determining the amount necessary to enable him to make a down payment and to cover incidental expenses on the purchase of replacement housing, as follows:

(1) The amount of the down payment shall be the lesser of:

(i) The amount that would be required as a down payment for financing a conventional loan on a comparable dwelling; or

(ii) The amount required as a down payment for financing a conventional loan on the replacement dwelling actually purchased. The amount determined shall be added to the amount required to be paid by the purchaser as points and/or origination or loan services fee if such fees are normal to real estate transactions in the area on the comparable dwelling or the replacement dwelling, whichever is the lesser.

(2) Incidental expenses of closing the transaction are those as described in § 101-6.106-3(c).

(3) The maximum payment shall not exceed $4,000, except that if more than $2,000 is required, the tenant must match any amount in excess of $2,000 by an equal amount in making the down payment.

(4) The full amount of the replacement housing payment must be applied to the purchase price and incidental costs shown on the closing statement.

§ 101-6.107-3 Computation of replacement housing payments for certain others.

(a) A displaced owner-occupant who does not qualify for a replacement housing payment under § 101-6.106 because of the 180 days occupancy requirement and elects to rent is eligible for a rental replacement housing payment not to exceed $4,000. The payment shall be computed in the same manner as that shown in § 101-6.107-2(a), except that the present rental rate for the acquired dwelling shall be economic rent as determined by market data.

(b) A displaced owner-occupant who does not qualify for a replacement housing payment under § 101-6.106 because of the 180 day occupancy requirement and elects to purchase a replacement dwelling is eligible for a replacement housing down payment and closing costs not to exceed $4,000. The payment shall be computed in the same manner as that shown in § 101-6.107-2(b).

§ 101-6.108 Relocation Assistance Advisory Services.

§ 101-6.108-1 Relocation assistance advisory program.

Under section 205 of the Act, the head of a Federal agency shall require a relocation assistance advisory program for persons displaced as a result of Federal or federally assisted programs or projects. Federal agencies shall provide the advisory program where Federal projects are involved; State agencies shall provide the advisory program when federally assisted projects are involved. Each relocation assistance advisory program shall include such measures, facilities, or services as may be necessary or appropriate to perform all of the tasks detailed in section 205(c) of the Act.

§ 101-6.108-2 Coordination of planned relocation activities.

(a) *Federal coordination.* When two or more Federal agencies contemplate displacement activities in a given community or area, the heads of the respective agencies responsible for the planned activities shall require that appropriate channels of communication be established between the agencies for the purpose of planning relocation activities and coordinating available housing resources. The agencies involved shall consult with the appropriate Housing and Urban Development Regional/Area Office within the jurisdictional area concerning the availability of housing. "HUD Field Office Jurisdictions," a directory of regional area offices, is maintained on a current basis by the Department of Housing and Urban Development and will be furnished to agencies upon request. The agencies causing the displacement shall designate at least one representative who will meet periodically with the representatives of other Federal agencies to review the impact of their respective programs on the community or area.

(b) *Local coordination.* To further ensure maximum coordination of relocation activities in a given community or area, each Federal agency's regulations shall require that the displacing agency consult appropriate local officials before approving any proposed project in the community, consistent with the requirements of the procedures promulgated by the Office of Management and Budget Circular A-95 (Revised). That circular provides a central point for identifying local officials.

§ 101-6.108-3 Contracting for relocation services.

(a) *Contracting with central relocation agency.* The head of a displacing agency contemplating the initiation of displacement activities shall consider contracting with the central relocation agency in a community or area for carrying out its relocation activities. Federal agency regulations and procedures shall require specific performance standards for these services. The appropriate Housing and Urban Development Regional/Area Office shall provide information and assistance, on request from other Federal agencies, concerning these services.

(b) *Contracting with others.* When a centralized relocation agency is not available in a community or if in the judgment of the displacing agency the centralized agency does not have the capacity to provide the necessary services within the time required by the agency's program, the displacing agency may contract with another public agency or a private contractor who can provide the necessary relocation services.

§ 101-6.108-4 General contracts.

(a) *Veterans Administration (VA).* The Veterans Administration maintains a housing counseling service and a displaced persons priority program for providing VA-owned housing to displaced persons. These services may be made available to persons displaced by Federal and federally assisted programs, and the local VA Loan Guarantee Office should be contacted.

(b) *Small Business Administration.* The Small Business Administration provides technical and loan counseling services for small businesses. A displaced businessman should be advised of these services.

(c) *Department of Agriculture.* The Department of Agriculture provides many services through its direct action farmer assistance programs, activities in rural nonfarm communities, and also urban communities of under 10,000 population. Coordination with the Farmers Home Administration, Department of Agriculture, is recommended when a farm operation is displaced.

(d) *Local governmental organizations.* Local governmental organizations and agencies may have rent supplement, public housing, or related relocation assistance programs which may be utilized to provide housing for the occupants displaced from a project. Local programs should be utilized where they exist. Local nongovernmental associations may also be used in helping a displaced person. Local real estate boards, apartment owners associations, home builders associations, and other organizations may provide information and services that will help obtain comparable replacement housing for displaced persons and suitable replacement sites for displaced businesses. Also many States have veterans' organizations which offer services to veterans. The availability of such State organizations should be ascertained and used.

§ 101-6.109 Federally assisted programs.

§ 101-6.109-1 Assurances.

(a) *Information.* The assurances required of State agencies by sections 210 and 305 of the Act shall include a statement that the affected persons will be adequately informed of the benefits, policies, and procedures described in the assurances.

(b) *Inability to provide assurances.* The head of a Federal agency shall not approve or authorize any action by a State agency which will result in the displacement of any person or the acquisition of any real property except in accordance with the following requirements:

(1) A state agency has provided satisfactory assurances as required by sections 210 and 305 of the Act; or

(2) A State agency's assurances are accompanied by a statement in which it identifies any of the assurances required by section 305 of the Act which it is unable to provide, in whole or in part, under its laws. The statement should be supported by an opinion of the chief legal officer of the State agency or other appropriate legal officer. Federal agencies administering federally assisted programs may adopt procedures setting forth the conditions under which projects will be approved when State agencies cannot fully comply with section 305 of the Act. In all cases there must be full compliance with all assurances required by section 210 of the Act.

(c) *Compliance with sections 301 and 302 of the Act.* A State agency, as part of the assurances required by section 305 of the Act, shall provide a statement indicating the extent to which it can comply with the provisions of sections 301 and 302 of the Act. If the State agency indicates that it is unable to comply fully with any of these policies, its statement shall be supported by an opinion of the chief legal officer of the State agency or other appropriate legal officer. State agencies should comply with sections 301 and 302 of the Act if, under State law, compliance is legally possible.

(d) *Monitoring assurances.* The heads of Federal agencies shall take continuing action to ensure that State agencies are acting in accordance with the assurances they have provided.

§ 101-6.109-2 Administration of relocation assistance programs.

(a) *Approval.* A State agency electing to contract for services pursuant to section 212 of the Act shall enter into a written contract consistent with the regulations of the Federal agency administering the project or program causing the displacement. The head of the Federal agency shall take affirmative action to ensure that the contract is so administered as to provide uniform and effective relocation for all displaced persons, consistent with these guidelines.

(b) *Contract for services by State agencies.* Contracts shall include, as a minimum, the following provisions:

(1) That payments and assistance shall be provided in accordance with Federal agency regulations implementing the guidelines in this subpart;

(2) That records required by Federal agency regulations shall be retained for a period of at least 3 years and shall be available for inspection by representatives of the Federal agency involved and the General Accounting Office;

(3) Clauses required by Federal agency regulations implementing Title VI of the Civil Rights Act of 1964 (Pub. L. 88-353); and

(4) Any other provision approved by the head of the Federal agency administering the federally assisted program or project.

§ 101-6.110 Annual report [Reserved]

§ 101-6.111 Uniform real property acquisition policy.

§ 101-6.111-1 Applicability.

The provisions of Title III of the Act apply to the acquisition of real property for Federal and federally assisted programs or projects.

§ 101-6.111-2 Acquisition procedures.

(a) *Just compensation.* Section 301 (3) of the Act establishes the policy that before initiation of negotiations for the acquisition of real property the head of the Federal agency concerned shall establish an amount which he believes to be just compensation therefor. In no event shall that amount be less than the agency's approved appraisal of the fair market value of the property.

(b) *Initiation of negotiations*—(1) *Statement to be furnished to the owner.* When negotiations for the acquisition of real property are initiated, the owner shall be provided with a written statement concerning the proposed acquisition. This statement shall include, as a minimum, the following:

(i) Identification of the real property and the estate or interest therein to be acquired, including the buildings, structures, and other improvements on the land and the fixtures considered to be a part of the real property; and

(ii) The amount of the estimated just compensation for the property to be acquired as determined by the acquiring agency and a statement of the basis therefor. In the case of a partial taking, damages, if any, to the remaining real property shall be separately stated.

(2) *Offer to purchase.* The head of the Federal agency shall make a prompt offer to purchase the property for the amount in the statement.

§ 101-6.111-3 Appraisal standards.

For the purpose of promoting uniformity under section 301(3) of the Act, the head of each Federal agency shall establish for all Federal or federally assisted programs under his jurisdiction standards for appraisals used in such programs, criteria for determining the qualifications of appraisers and a system of review by qualified appraisers, consistent with the current issue of the Uniform Appraisal Standards for Federal Land Acquisition published by the Interagency Land Acquisition Conference.

§ 101-6.111-4 Notice to move.

Subsection 301(5) of the Act provides that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling or to move his business or farm operation without at least 90 days written notice from the head of the displacing agency of the date by which such move is required. This subsection applies only in those instances in which actual displacement of persons, businesses, or farm operations occurs.

§ 101-6.111-5 Federally assisted programs.

The head of each Federal agency administering Federal financially assisted programs carried out by State agencies should require that State agencies reimburse owners for necessary expenses as specified in sections 303 and 304 of the Act. The head of each Federal agency also should require that all State agencies comply with the provisions of sections 301 and 302 of the Act if compliance is legally possible under State law.

§ 101-6.112 Administrative review.

§ 101-6.112-1 Procedures.

(a) In connection with a direct Federal program or project, the head of a Federal agency should establish procedures for any person aggrieved by a determination as to eligibilty for a payment authorized by the Act or the amount of a payment to have his application reviewed by the head of the Federal agency. In the case of a State program or project receiving Federal financial assistance, the regulations of the Federal agency administering the program or project should require an administrative review by the head of the State agency.

(b) The procedures pertaining to administrative review shall ensure the following:

(1) Prompt consideration of all requests for administrative review;

(2) Prompt written notice to the claimant of any determination made in connection with his application. This written notice must include a full explanation concerning any amount claimed which has been disallowed; and

(3) Prompt payment of any amounts which are determined to be due the claimant.

Subpart 101-6.2—Nondiscrimination in Programs Receiving Federal Financial Assistance

AUTHORITY: Sec. 602, 78 Stat. 252; 42 U.S.C. 2000d-1.

SOURCE: 29 FR 16287, Dec. 4, 1964, unless otherwise noted.

§ 101-6.201 Scope of subpart.

This subpart provides the regulations of the General Services Administration (GSA) under title VI of the Civil Rights Act of 1964 (52 U.S.C. 2000d—2000d-4) concerning nondiscrimination in federally assisted programs in connection with which Federal financial assistance is extended under laws administered in whole or in part by GSA.

[38 FR 17973, July 5, 1973]

§ 101-6.202 Purpose.

The purpose of this subpart is to effectuate the provisions of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the "Act") to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from GSA.

§ 101-6.203 Application of subpart.

(a) Subject to paragraph (b) of this section, this subpart applies to any program for which Federal financial assistance is authorized under a law administered in whole or in part by GSA, including the laws listed in § 101-6.217. It applies to money paid, property transferred, or other Federal financial assistance extended to any such program after the effective date of this subpart pursuant to an application approved prior to such effective date. This subpart does not apply to (1) any Federal financial assistance by way of insurance or guaranty contracts, (2) money paid, property transferred, or other assistance extended to any such program before the effective date of this subpart, except to the extent otherwise provided by contract, (3) any assistance to any individual who is the ultimate beneficiary under any such program, or (4) any employment practice, under any such program, of any employer, employment agency, or labor organization, except to the extent described in § 101-6.204-2(d). The fact that a statute which authorizes GSA to extend Federal financial assistance to a program or activity is not listed in § 101-6.217 shall not mean, if title VI of the Act is otherwise applicable, that such program is not covered. Other programs involving statutes now in force or hereinafter enacted may be added to this list by notice published in the FEDERAL REGISTER.

(b) The regulations issued by the follwoing Departments pursuant to title VI of the Act shall be applicable to the programs involving Federal financial assistance of the kind indicated, and those Departments shall respectively be responsible for determining and enforcing compliance therewith:

(1) Department of Health, Education, and Welfare—donation or transfer of surplus property for purposes of education or public health (§ 101-6.217 (a) (2) and (b)).

(2) Department of Defense—donation of surplus personal property for purposes of civil defense (§ 101-6.217(a)(2)).

(3) Department of Transportation—donation of property for public airport purposes (§ 101-6.217(c)). GSA will, however, be responsible for obtaining such assurances as may be required in applications and in instruments effecting the transfer of property.

(4) Department of the Interior—disposal of surplus real property, including improvements, for use as a public park, public recreational area, or historic monument (§ 101-6.217(d) (1) and (2)). GSA will, however, be responsible for obtaining such assurances as may be required in applications and in instruments effecting the transfer of property for use as a historic monument.

(5) Department of Housing and Urban Development—disposal of surplus real property for use in the provision of rental or cooperative housing to be occupied by families or individuals of low or moderate income (§ 101-6.217(q)).

(c) Each Department named in paragraph (b) of this section shall keep GSA advised of all compliance and enforcement actions, including sanctions imposed or removed, taken by it with respect to the programs specified in paragraph (b) of this section to which the regulations of such Department apply.

[38 FR 17973, July 5, 1973]

§ 101-6.204 Discrimination prohibited.

§ 101-6.204-1 General.

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program to which this subpart applies.

§ 101-6.204-2 Specific discriminatory actions prohibited.

(a)(1) In connection with any program to which this subpart applies, a recipient may not, directly or through contractual or other arrangements, on the ground of race, color, or national origin:

(i) Deny an individual any service, financial aid, or other benefit provided under the program;

(ii) Provide any service, financial aid, or other benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program;

(iii) Subject an individual to segregation or separate treatment in any matter related to his receipt of any service, financial aid, or other benefit under the program;

(iv) Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program;

(v) Treat an individual differently from others in determining whether he satisfies any admission, enrollment, quota, eligibility, membership or other requirement or condition which individuals must meet in order to be provided any service, financial aid, or other benefit provided under the program;

(vi) Deny an individual an opportunity to participate in the program through the provision of services or otherwise, or afford him an opportunity to do so which is different from that afforded others under the program (including the opportunity to participate in the program as an employee but only to the extent set forth in paragraph (d) of this § 101-6.204-2).

(2) A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program, or the class of individuals to whom, or the situations in which, such services, financial aid, other benefits, or facilities will be provided under any such program, or the class of individuals to be afforded an opportunity to participate in any such program, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respect individuals of a particular race, color, or national origin.

(3) In determining the site or location of facilities, an applicant or recipient may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program to which this subpart applies, on the ground of race, color, or national origin or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this subpart.

(4) This subpart does not prohibit the consideration of race, color, or national origin if the purpose and effect are to remove or overcome the consequences of practices or impediments which have restricted the availability of, or participation in, the program or activity receiving Federal financial assistance, on the ground of race, color, or national origin. Where previous discriminatory practice or usage tends, on the ground of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this subpart applies, the applicant or recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purposes of the Act.

(b) As used in this § 101-6.204-2 the services, financial aid, or other benefits provided under a program receiving Federal financial assistance shall be deemed to include any service, financial aid, or other benefit provided in or through a facility provided with the aid of Federal financial assistance.

(c) The enumeration of specific forms of prohibited discrimination in this § 101-6.204-2 does not limit the generality of the porhibition in § 101-6.204-1.

(d)(1) Where a primary objective of the Federal financial assistance to a program to which this subpart applies is to provide employment, a recipient may not, directly or through contractual or other arrangements, subject an individual to discrimination on the ground of race, color, or national origin in its employment practices under such program (including, but not limited to, recruitment or recruitment advertising; employment; layoff or termination; upgrading, demotion, or transfer; rates of pay or other forms of compensation; selection for training, including apprenticeship; and use of facilities). The requirements applicable to construction employment under any such program shall be those specified in or pursuant to Part III of Executive Order 11246 or the corresponding provisions of any Executive order which supersedes it.

(2) Where a primary objective of the Federal financial assistance is not to provide employment, but discrimination on the ground of race, color, or national origin in the employment practices of the recipient or other persons subject to this subpart tends, on the ground of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program to which this subpart applies, the provisions of paragraph (d)(1) of this section shall apply to the employment practices of the recipient or other persons subject to this subpart, to the extent necessary to insure equality of opportunity to, and nondiscriminatory treatment of, beneficiaries.

[29 FR 16287, Dec. 4, 1964, as amended at 38 FR 17973, July 5, 1973]

§ 101-6.204-3 Special programs.

An individual shall not be deemed subjected to discrimination by reason of his exclusion from the benefits of a program limited by Federal law to individuals of a particular race, color, or national origin different from his.

§ 101-6.205 Assurances required.

§ 101-6.205-1 General.

(a) Every application for Federal financial assistance to carry out a program to which this Subpart 101-6.2 applies, except a program to which § 101-6.205-2 applies, and every application for Federal financial assistance to provide a facility shall, as a condition to its approval and the extension of any Federal financial assistance pursuant to the application, contain or be accompanied by an assurance that the program will be conducted or the facility operated in compliance with all requirements imposed by or pursuant to this Subpart 101-6.2. In the case of an application for Federal financial assistance to provide real property or structures thereon, the assurance shall obligate the recipient, or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. In the case of personal property, the assurance shall obligate the recipient for the period during which he retains ownership or possession of the property. In all other cases the assurance shall obligate the recipient for the period during which Federal financial assistance is extended pursuant to the application. The responsible GSA official shall specify the form of the foregoing assurances for each program and the extent to which like assurances will be required of subgrantees, contractors and subcontractors, transferees, successors in interest, and other participants in the program. Any such assurance shall include provisions which give the United States a right to seek its judicial enforcement.

(b) In the case of real property, structures or improvements thereon, or interests therein, which is acquired with Federal financial assistance, or in the case where Federal financial assistance is provided in the form of a transfer of real property or interest therein from the Federal Government, the instrument effecting or recording the transfer shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. Where no transfer of property is involved, but property is improved under a program of Federal financial assistance, the recipient shall agree to include such a covenant in any subsequent transfer of such property. Where the property is obtained from the Federal Government, such covenant may also include a condition coupled with a right to be reserved by GSA to revert title to the property in the event of a breach of the covenant where, in the discretion of the responsible GSA official, such a condition and right of reverter is appropriate to the program under which the real property is obtained and to the nature of the grant and the grantee. In such event, if a transferee of real property proposes to mortgage or otherwise encumber the real property as security for financing construction of new, or improvement of existing, facilities on such property for the purposes for which the property was transferred, the Administrator may agree, upon request of the transferee and if necessary to accomplish such financing, and upon such conditions as he deems appropriate, to forebear the exercise of such right to revert title for so long as the lien of such mortgage or other encumberance remains effective.

(c) The assurance required in the case of a transfer of personal property shall be inserted in the instrument effecting the transfer of the property.

(d) In the case of programs not involving a transfer of property, the assurance required shall be inserted in the agreement executed between the United States and the recipient covering the extension of Federal financial assistance.

[29 FR 16287, Dec. 4, 1964, as amended at 38 FR 17973, July 5, 1973]

§ 101-6.205-2 Continuing State programs.

Every application by a State or a State agency to carry out a program involving continuing Federal financial assistance to which this subpart applies shall as a condition to its approval and the extension of any Federal financial assistance pursuant to the application (a) contain or be accompanied by a statement that the program is (or, in the case of a new program, will be) conducted in compliance with all requirements imposed by or pursuant to this subpart, and (b) provide or be accompanied by provision for such methods of administration for the program as are found by the responsible GSA official to give reasonable assurance that the applicant and all recipients of Federal financial assistance under such program will comply with all requirements imposed by or pursuant to this subpart.

[38 FR 17974, July 5, 1973]

§ 101-6.205-3 Elementary and secondary schools.

The requirements of §§ 101-6.205-1 and 101-6.205-2 with respect to any elementary or secondary school or school system shall be deemed to be satisfied if such school or school system (a) is subject to a final order of a court of the United States for the desegregation of such school or school system, and provides an assurance that it will comply with such order, including any future modification of such order, or (b) submits a plan for the desegregation of such school or school system which the responsible official of the Department of Health, Education, and Welfare determines is adequate to accomplish the purposes of the Act and this subpart within the earliest practicable time, and provides reasonable assurance that it will carry out such plan. In any case of continuing Federal financial assistance such responsible official may reserve the right to redetermine, after such period as may be specified by him, the adequacy of the plan to accomplish the purposes of the Act and this subpart. In any case in which a final order of a court of the United States for the desegregation of such school or school system is entered after submission of such a plan, such plan shall be revised to conform to such final order, including any future modification of such order.

[38 FR 17974, July 5, 1973]

§ 101-6.205-4 Applicability of assurances.

(a) In the case of any application for Federal financial assistance to an institution of higher education, the assurance required by this § 101-6.205 shall extend to admission practices and to all other practices relating to the treatment of students.

(b) The assurance required with respect to an institution of higher education, hospital, or any other institution, insofar as the assurance relates to the institution's practices with respect to admission or other treatment of individuals as students, patients, or clients of the institution or to the opportunity to participate in the provision of services or other benefits to such individuals, shall be applicable to the entire institution unless the applicant establishes, to the satisfaction of the responsible GSA official, that the institution's practices in designated parts or programs of the institution will in no way affect its practices in the program of the institution for which Federal financial assistance is sought, or the beneficiaries of or participants in such program. If in any such case the assistance sought is for the construction of a facility or part of a facility, the assurance shall in any event extend to the entire facility and to facilities operated in connection therewith.

(c) Where an installation or facility (for example, a public airport, or park or recreation area) is comprised of real property for which application is made under a program, and, in addition, other real property of the applicant, the assurance required under this § 101-6.205 shall be applicable to the entire installation or facility.

§ 101-6.206 Illustrative applications.

The following examples will illustrate the application of the foregoing provisions of this subpart to certain programs for which Federal financial assistance is extended by GSA (in all cases the discrimination prohibited is discrimination on the ground of race, color, or national origin, prohibited by title VI of the Act and this subpart):

(a) In the programs involving the transfer of surplus property for airport, park or recreation, historic monument, wildlife conservation, or street widening purposes (§ 101-6.217 (c), (d), (e), and (h)), the public generally is entitled to the use of the facility and to receive the services provided by the facility and to facilities operated in connection therewith, without segregation or any other discriminatory practices.

(b) In the program involving the loan of machine tools to nonprofit institutions or training schools (§ 101-6.217(o)), discrimination by the recipient in the admission of students or trainees or in the treatment of its students or trainees in any aspect of the educational process is prohibited. In the case of an institution of higher education, the prohibition applies to the entire institution except as provided in paragraph (b) of § 101-6.205-4. In the case of elementary or secondary schools, the prohibition applies to all elementary and secondary schools of the recipient school district, consistent with § 101-6.205-3. In this and other illustrations the prohibition of discrimination in the treatment of students or trainees includes the prohibition of discrimination among the students or trainees in the availability or use of any academic, dormitory, eating, recreational, or other facilities of the recipient.

(c) In the programs involving the donation of personal property to public bodies or the American National Red Cross (§ 101-6.217 (f) and (j)), discrimination in the selection or treatment of individuals to receive or receiving the benefits or services of the program is prohibited.

(d) In the program involving the donation of personal property to eleemosynary institutions (§ 101-6.217(*1*)), the assurance will apply to applicants for admission, patients, interns, residents, student nurses, and other trainees, and to the privilege of physicians, dentists, and other professionally qualified persons to practice in the institution, and will apply to the entire institution and to facilities operated in connection therewith, subject to the provisions of § 101-6.205-4(b).

(e) In the programs involving the allotment of space by GSA to Federal Credit Unions, without charge for rent or services, and the provision of free space and utilities for vending stands operated by blind persons (§ 101-6.217 (i) and (k)), discrimination by segregation or otherwise in providing benefits or services is prohibited.

(f) In the program involving grants to State and local agencies and to nonprofit organizations and institutions for the collecting, describing, preserving, and compiling and publishing of documentary sources significant to the history of the United States (§ 101-6.217(n)), discrimination by the recipient in the selection of students or other participants in the program, and, with respect to educational institutions, in the admission or treatment of students, is prohibited.

(g) In the program involving the transfer of surplus real property for use in the provision of rental or cooperative housing to families or individuals of low or moderate income (§ 101-6.217(q)), discrimination in the selection and assignment of tenants is prohibited.

(h) A recipient may not take action that is calculated to bring about indirectly what this subpart forbids it to accomplish directly.

(i) In some situations even though past discriminatory practices have been abandoned, the consequences of such practices continue to impede the full availability of a benefit. If the efforts required of the applicant or recipient under § 101-6.209-4 to provide information as to the availability of the program or activity and the rights of beneficiaries under this subpart have failed to overcome these consequences, it will become necessary for such applicant or recipient to take additional steps to make the benefits fully available to racial and nationality groups previously subjected to discrimination. This action might take the form, for example, of special arrangements for obtaining referrals or making selections which will ensure that groups previously subjected to discrimination are adequately served.

(j) Even though an applicant or recipient has never used discriminatory policies, the services and benefits of the program or activity it administers may not in fact be equally available to some racial or nationality groups. In such circumstances, an applicant or recipient may properly give special consideration to race, color, or national origin to make the benefits of its program more widely available to such groups not then being adequately served. For example, where a university is not adequately serving members of a particular racial or nationality group, it may establish special recruitment policies to make its program better known and more readily available to such group, and take other steps to provide that group with more adequate service.

[29 FR 16287, Dec. 4, 1964, as amended at 38 FR 17974, July 5, 1973]

§§ 101-6.207—101-6.208 [Reserved]

§ 101-6.209 Compliance information.

§ 101-6.209-1 Cooperation and assistance.

Each responsible GSA official shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with this Subpart 101-6.2 and shall provide assistance and guidance to recipients to help them comply voluntarily with this subpart.

§ 101-6.209-2 Compliance reports.

Each recipient shall keep such records and submit to the responsible GSA official or his designee timely, complete and accurate compliance reports at such times, and in such form and containing such information, as the responsible GSA official or his designee may determine to be necessary to enable him to ascertain whether the recipient has complied or is complying with this Subpart 101-6.2. In the case of any program under which a primary recipient extends Federal financial assistance to any other recipient, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under this subpart.

§ 101-6.209-3 Access to sources of information.

Each recipient shall permit access by the responsible GSA official or his designee during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with this subpart. Where any information required of a recipient is in the exclusive possession of any other agency, institution or person and this agency, institution or person shall fail or refuse to furnish this information, the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information.

§ 101-6.209-4 Information to beneficiaries and participants.

Each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of this Subpart 101-6.2 and its applicability to the program under which the recipient receives Federal financial assistance, and make such information available to them in such manner, as the responsible GSA official finds necessary to apprise such persons of the protections against discrimination assured them by the Act and this Subpart 101-6.2.

§ 101-6.210 Conduct of investigations.

§ 101-6.210-1 Periodic compliance reviews.

The responsible GSA official or his designee shall from time to time review the practices of recipients to determine whether they are complying with this regulation.

§ 101-6.210-2 Complaints.

Any person who believes himself or any specific class of individuals to be subjected to discrimination prohibited by this Subpart 101-6.2 may by himself or by a representative file with the responsible GSA official or his designee a written complaint. A complaint must be filed not later than 90 days from the date of the alleged discrimination, unless the time for filing is extended by the responsible GSA official or his designee.

§ 101-6.210-3 Investigations.

The responsible GSA official or his designee will make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with this Subpart 101-6.2. The investigation should include, where appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with this subpart occurred, and other factors relevant to a determination as to whether the recipient has failed to comply with this subpart.

§ 101-6.210-4 Resolution of matters.

(a) If an investigation pursuant to § 101-6.210-3 indicates a failure to comply with this Subpart 101-6.2, the responsible GSA official or his designee will so inform the recipient and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in § 101-6.211.

(b) If an investigation does not warrant action pursuant to paragraph (a) of this section the responsible GSA official or his designee will so inform the recipient and the complainant, if any, in writing.

§ 101-6.210-5 Intimidatory or retaliatory acts prohibited.

No recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by section 601 of the Act or this Subpart 101-6.2, or because he has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding, or hearing under this subpart. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this subpart, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

§ 101-6.211 Procedure for effecting compliance.

§ 101-6.211-1 General.

If there appears to be a failure or threatened failure to comply with this Subpart 101-6.2, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this subpart may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance or by any other means authorized by law. Such other means may include, but are not limited to, (a) a reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States (including other titles of the Act), or any assurance or other contractual undertaking, and (b) any applicable proceeding under State or local law.

§ 101-6.211-2 Noncompliance with § 101-6.205.

If an applicant fails or refuses to furnish an assurance required under § 101-6.205 or otherwise fails or refuses to comply with a requirement imposed by or pursuant to that section Federal financial assistance may be refused in accordance with the procedures of § 101-6.211-3. The GSA shall not be requried to provide assistance in such a case during the pendency of the administrative proceedings under § 101-6.211-3 except that GSA shall continue assistance during the pendency of such proceedings where such assistance is due and payable pursuant to an application therefor approved prior to the effective date of this Subpart 101-6.2.

§ 101-6.211-3 Termination of or refusal to grant or to continue Federal financial assistance.

No order suspending, terminating or refusing to grant or continue Federal financial assistance shall become effective until (a) the responsible GSA official has advised the applicant or recipient of his failure to comply and has determined that compliance cannot be secured by voluntary means, (b) there has been an express finding on the record, after opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to this Subpart 101-6.2, (c) the action has been approved by the Administrator pursuant to § 101-6.213-5, and (d) the expiration of 30 days after the Administrator has filed with the committee of the House and the committee of the Senate having legislative jurisdiction over the program involved, a full written report of the circumstances and the grounds for such action. Any action to suspend or terminate or to refuse to grant or to continue Federal financial assistance shall be limited to the particular political entity, or part thereof, or other applicant or recipient as to whom such a finding has been made and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found.

§ 101-6.211-4 Other means authorized by law.

No action to effect compliance by an other means authorized by law shall be taken until (a) the responsible GSA official has determined that compliance cannot be secured by voluntary means, (b) the recipient or other person has been notified of his failure to comply and of the action to be taken to effect compliance, and (c) the expiration of at least 10 days from the mailing of such notice to the recipient or other person. During this period of at least 10 days, additional efforts shall be made to persuade the recipient or other person to comply with this subpart and to take such corrective action as may be appropriate.

[38 FR 17974, July 5, 1973]

§ 101-6.212 Hearings.

§ 101-6.212-1 Opportunity for hearing.

Whenever an opportunity for a hearing is required by § 101-6.211-3, reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected applicant or recipient. This notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action, and either: (a) Fix a date not less than 20 days after the date of such notice within which the applicant or recipient may request of the responsible GSA official that the matter be scheduled for hearing, or (b) advise the applicant or recipient that the matter in question has been set down for hearing at a stated place and time. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant, if any, shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing under this section or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under section 602 of the Act and § 101-6.211-3, and consent to the making of a decision on the basis of such information as is available.

§ 101-6.212-2 Time and place of hearing.

Hearings shall be held, at a time fixed by the responsible GSA official, at the offices of GSA in Washington, D.C., unless such official determines that the convenience of the applicant or recipient or of GSA requires that another place be selected. Hearings shall be held before the responsible GSA official or, at his discretion, before a hearing examiner designated in accordance with 5 U.S.C. 3105 or 3344 (section 11 of the Administrative Procedure Act).

[38 FR 17974, July 5, 1973]

§ 101-6.212-3 Right to counsel.

In all proceedings under this § 101-6.212 the applicant or recipient and GSA shall have the right to be represented by counsel.

§ 101-6.212-4 Procedures, evidence, and record.

(a) The hearing, decision, and any administrative review thereof shall be conducted in conformity with 5 U.S.C. 554-557 (sections 5-8 of the Administrative Procedure Act) and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in § 101-6.212-1, taking of testimony, exhibits, arguments and briefs, requests for findings, and other related matters. Both GSA and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as deterined by the officer conducting the hearing at the outset of or during the hearing.

(b) Technical rules of evidence shall not apply to hearings conducted pursuant to this Subpart 101-6.2, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the officer conducting the hearing. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

[29 FR 16287, Dec. 4, 1964, as amended at 38 FR 17974, July 5, 1973]

§ 101-6.212-5 Consolidated or joint hearings.

In cases in which the same or related facts are asserted to constitute noncompliance with this Subpart 101-6.2 with respect to two or more programs to which this subpart applies, or noncompliance with this subpart and the regulations of one or more other Federal departments or agencies issued under Title VI of the Act, the Administrator may, by agreement with such other departments, or agencies, where applicable, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules of procedure not inconsistent with this regulation. Final decisions in such cases, insofar as this subpart is concerned, shall be made in accordance with § 101-6.213.

§ 101-6.213 Decisions and notices.

§ 101-6.213-1 Decision by person other than the responsible GSA official.

If the hearing is held by a hearing examiner such hearing examiner shall either make an initial decision, if so authorized, or certify the entire record including his recommended findings and proposed decision to the responsible GSA official for a final decision, and a copy of such initial decision or certification shall be mailed to the applicant or recipient. Where the initial decision is made by the hearing examiner the applicant or recipient may within 30 days of the mailing of such notice of initial decision file with the responsible GSA official his exceptions to the initial decision, with his reasons therefor. In the absence of exceptions, the responsible GSA official may on his own motion within 45 days after the initial decision serve on the applicant or recipient a notice that he will review the decision. Upon the filing of such exceptions or of such notice of review the responsible GSA official shall review the initial decision and issue his own decision thereon including the reasons therefor. In the absence of either exceptions or a notice of review the initial decision shall constitute the final decision of the responsible GSA official.

§ 101-6.213-2 Decisions on record or review by the responsible GSA official.

Whenever a record is certified to the responsible GSA official for decision or he reviews the decision of a hearing examiner pursuant to § 101-6.213-1, or whenever the responsible GSA official conducts the hearing, the applicant or recipient shall be given reasonable opportunity to file with him briefs or other written statements of its contentions, and a copy of the final decision of the responsible GSA official shall be given in writing to the applicant or recipient, and to the complainant, if any.

§ 101-6.213-3 Decisions on record where a hearing is waived.

Whenever a hearing is waived pursuant to § 101-6.212 a decision shall be made by the responsible GSA official on the record and a copy of such decision shall be given in writing to the applicant or recipient, and to the complainant, if any.

§ 101-6.213-4 Rulings required.

Each decision of a hearing officer or responsible GSA official shall set forth his ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to this Subpart 101-6.2 with which it is found that the applicant or recipient has failed to comply.

§ 101-6.213-5 Approval by Administrator.

Any final decision of a responsible GSA official (other than the Administrator) which provides for the suspension or termination of, or the refusal to grant or continue Federal financial assistance, or the imposition of any other sanction available under this Subpart 101-6.2 or the Act, shall promptly be transmitted to the Administrator, who may approve such decision, may vacate it, or remit or mitigate any sanction imposed.

§ 101-6.213-6 Content of orders.

The final decision may provide for suspension or termination of, or refusal to grant or continue Federal financial assistance, in whole or in part, under the program involved, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and this Subpart 101-6.2, including provisions designed to assure that no Federal financial assistance will thereafter be extended under such program to the applicant or recipient determined by such decision to be in default in its perfomrance of an assurance given by it pursuant to this subpart, or to have otherwise failed to comply with this subpart, unless and until it corrects its noncompliance and satisfies the responsible GSA official that it will fully comply with this subpart.

§ 101-6.213-7 Post termination proceedings.

(a) An applicant or recipient adversely affected by an order issued under § 101-6.213-6 shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this subpart and provides reasonable assurance that it will fully comply with this subpart. An elementary or secondary school or school system which is unable to file an assurance of compliance with § 101-6.24 shall be restored to full eligibility to receive financial assistance if it files a court order or a plan for desegregation meeting the requirements of § 101-6.205-3 and provides reasonable assurance that it will comply with this court order or plan.

(b) Any applicant or recipient adversely affected by an order entered pursuant to § 101-6.213-6 may at any time request the responsible GSA official to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of paragraph (a) of this section. If the responsible GSA official determines that those requirements have been satisfied, he shall restore such eligibility.

(c) If the responsible GSA official denies any such request, the applicant or recipient may submit a request, in writing, for a hearing, specifying why it believes such official to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules of procedure issued by the responsible GSA official. The applicant or recipient will be restored to such eligibilty if it proves at such a hearing that it satisfied the requirements of paragraph (a) of this section. While proceedings under this section are pending, the sanctions imposed by the order issued under § 101-6.213-6 shall remain in effect.

[38 FR 17975, July 5, 1973]

§ 101-6.214 Judicial review.

Action taken pursuant to section 602 of the Act is subject to judicial review as provided in section 603 of the Act.

§ 101-6.215 Effect on other regulations; forms and instructions.

§ 101-6.215-1 Effect on other regulations.

All regulations, orders, or like directions heretofore issued by any officer of GSA which imposed requirements designed to prohibit any discrimination against individuals on the ground of race, color, or national origin under any program to which this Subpart 101-6.2 applies, and which authorize the suspension or termination of or refusal to grant or to continue Federal financial assistance to any applicant for or recipient of such assistance under such program for failure to comply with such requirements, are hereby superseded to the extent that such discrimination is prohibited by this subpart, except that nothing in this subpart shall be deemed to relieve any person of any obligation assumed or imposed under any such superseded regulation, order, instruction, or like direction prior to the effective date of this subpart. Nothing in this subpart, however, shall be deemed to supersede any of the following (including future amendments thereof):

(a) Executive Orders 10925, 11114, and 11246, and regulations issued thereunder.

(b) Any other orders, regulations, or instructions, insofar as such orders, regulations, or instructions prohibit discrimination on the ground of race, color, or national origin in any program or situation to which this subpart is inapplicable, or prohibit discrimination on any other ground.

[29 FR 16287, Dec. 4, 1964, as amended at 38 FR 17975, July 5, 1973]

§ 101-6.215-2 Forms and instructions.

Each responsible GSA official shall issue and promptly make available to interested persons forms and detailed instructions and procedures for effectuating this Subpart 101-6.2 as applied to programs to which this subpart applies and for which he is responsible.

§ 101-6.215-3 Supervision and coordination.

The Administrator may from time to time assign to officials of other departments or agencies of the Government, with the consent of such departments or agencies, responsibilities in connection with the effectuation of the purposes of title VI of the Act and this subpart (other than responsibility for final decision as provided in § 101-6.213), including the achievement of effective coordination and maximum uniformity within GSA and within the executive branch of the Government in the application of title VI and this subpart to similar programs and in similar situations. Any action taken, determination made, or requirement imposed by an official of another Department or Agency acting pursuant to an assignment of responsibility under this section shall have the same effect as though such action had been taken by the responsible GSA official.

[38 FR 17975, July 5, 1973]

§ 101-6.216 Definitions.

As used in this subpart:

(a) The term "General Services Administration" or "GSA" includes each of its operating services and other organizational units.

(b) The term "Administrator" means the Administrator of General Services.

(c) The term "responsible GSA official" with respect to any program receiving Federal financial assistance means the Administrator or other official of GSA who by law or by delegation has the principal responsibility within GSA for the administration of the law extending such assistance.

(d) The term "United States" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and the territories and possessions of the United States, and the terms "State" means any one of the foregoing.

(e) The term "Federal financial assistance" includes (1) grants and loans of Federal funds, (2) the grant or donation of Federal property and interests in property, (3) the detail of Federal personnel, (4) the sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purposes of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient, and (5) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

(f) The term "program" includes any program, project, or activity for the provision of services, financial aid, or other benefits to individuals (including education or training, health, welfare, rehabilitation, housing, or other services, whether provided through employees of the recipient of Federal financial assistance or provided by others through contracts or other arrangements with the recipient, and including work opportunities and cash or loan or other assistance to individuals), or for the provision of facilities for furnishing services, financial aid or other benefits to individuals. The services, financial aid, or other benefits provided under a program receiving. Federal financial assistance shall be deemed to include any services, financial aid, or other benefits provided with the aid of Federal financial assistance or with the aid of any non-Federal funds, property, or other resources required to be expended or made available for the program to meet matching requirements or other conditions which must be met in order to receive the Federal financial assistance, and to include any services, financial aid, or other benefits provided in or through a facility provided with the aid of Federal financial assistance or such non-Federal resources.

(g) The term "facility" includes all or any portion of structures, equipment, or other real or personal property or interests therein, and the provision of facilities includes the construction, expansion, renovation, remodeling, alteration or acquisition of facilities.

(h) The term "recipient" means any State, political subdivision of any State, or instrumentality of any State or political subdivision, any public or private agency, institution, or organization, or any other entity, or any individual, in any State, to whom Federal financial assistance is extended, directly or through another recipient, for any program, including any successor, assign, or transferee thereof, but such term does not include any ultimate beneficiary under any such program.

(i) The term "primary recipient" means any recipient which is authorized or required to extend Federal financial assistance to another recipient for the purpose of carrying out a program.

(j) The term "applicant" means one who submits an application, request, or plan required to be approved by a responsible GSA official, or by a primary recipient, as a condition to eligibility for Federal financial assistance, and the term "application" means such an application, request, or plan.

§ 101-6.217 Laws authorizing Federal financial assistance for programs to which this subpart applies.

(a) (1) Donation of surplus personal property to educational activities which are of special interest to the armed services (section 203(j)(2) of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 484(j)(2)).

(2) Donation of surplus personal property for use in any State for purposes of education, public health, or civil defense, or for research for any such purposes (section 203(j) (3) and (4) of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 484(j) (3) and (4)), and the making available to State agencies for surplus property, or the transfer of title to such agencies, of surplus personal property approved for donation for purposes of education, public health, or civil defense, or for research for any such purposes (section 203(n) of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 484(n)).

(b) Disposal of surplus real and related personal property for purposes of education or public health, including research (section 203(k)(1) of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 484(k)(1)).

(c) Donation of property for public airport purposes (section 13(g) of the Surplus Property Act of 1944, 50 U.S.C. App. 1622(g); section 23 of the Airport and Airway Development Act of 1970, Pub. L. 91-258).

(d) (1) Disposal of surplus real property, including improvements, for use as a historic monument (section 13(h) of the Surplus Property Act of 1944, 50 U.S.C. App. 1622(h)).

(2) Disposal of surplus real and related personal property for public park or public recreational purposes (section 203(k)(2) of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 484(k)(2).

(e) Disposal of real property to States for wildlife conservation purposes (Act of May 19, 1948, 16 U.S.C. 667b-d).

(f) Donation of personal property to public bodies (section 202(h) of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 483(h)).

(g) Grants of easements by the General Services Administration pursuant to the Act of October 23, 1962, (40 U.S.C. 319-319(c), and grants by the General Services Administration of revocable licenses or permits to use or occupy Federal real property, if the consideration to the Government for such easement, licenses, or permits is less than estimated fair market value.

(h) Conveyance of real property or interests therein by the General Services Administration to States or political subdivisions for street widening purposes pursuant to the Act of July 7, 1960 (40 U.S.C. 345c), if the consideration to the Government is less than estimated fair market value.

(i) Allotment of space by the General Services Administration in Federal buildings to Federal Credit Unions, without charge for rent or services (section 25 of the Federal Credit Union Act, 12 U.S.C. 1770).

(j) Donation of surplus property to the American National Red Cross (section 203(*l*) of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 484(*l*)).

(k) Provision by the General Services Administration of free space and utilities for vending stands operated by blind persons (section 1 of the Randolph-Sheppard Act, 20 U.S.C. 107).

(l) Donation of forfeited distilled spirits, wine, and malt beverages to eleemosynary institutions (26 U.S.C. 5688).

(m) Donation of surplus Federal records (Federal Records Disposal Act of 1943, 44 U.S.C. 366-380).

(n) Grants to State and local agencies and to nonprofit organizations and institutions for the collecting, describing, preserving and compiling, and publishing of documentary sources significant to the history of the United States (section 503 of the Federal Property and Administrative Services Act of 1949, as amended by Pub. L. 88-383).

(o) Loan of machine tools and industrial manufacturing equipment in the national industrial reserve to nonprofit educational institutions or training schools (section 7 of the National Industrial Reserve Act of 1948, 50 U.S.C. 456).

(p) District of Columbia grant-in-aid hospital program (60 Stat. 896, as amended).

(q) Disposal of surplus real property for use in the provision of rental or cooperative housing to be occupied by families or individuals of low or moderate income (section 414 of the Housing and Urban Development Act of 1969, Pub. L. 91-152).

(r) Payments in lieu of taxes on certain real property transferred from the Reconstruction Finance Corporation (Title VII of the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 521-524).

(s) Conveyance of certain lands and property to the State of Hawaii without reimbursement (Pub. L. 88-233, 77 Stat. 472).

[29 FR 16287, Dec. 4, 1964, as amended at 38 FR 17975, July 5, 1973]

Subparts 101-6.3–101-6.48 [Reserved]

Subpart 101-6.49—Illustrations

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Source: 37 FR 20542, Sept. 30, 1972, unless otherwise noted.

§ 101-6.4900 Scope of subpart.

This subpart contains illustrations prescribed for use in connection with the subject matter covered in Part 101-6.

§ 101-6.4901 [Reserved]

§ 101-6.4902 Format of certification required for budget submissions of estimates of obligations in excess of $100,000 for acquisitions of real and related personal property.

Note: The illustration in § 101-6.4902 is filed as part of the original document.

PART 101-7—FEDERAL TRAVEL REGULATIONS

Sec.
101-7.000 Scope of part.
101-7.001 Authority.
101-7.002 Applicability.
101-7.003 Incorporation by reference.

Authority: 5 U.S.C. 4111, 5701-5709, 5721-5733, 5741-5742; 20 U.S.C. 905; Executive Order 11012, March, 27, 1962 (27 FR 2983); Executive Order 11609, July 22, 1971 (36 FR 13747).

Source: 38 FR 10812, May 2, 1973, unless otherwise noted.

§ 101-7.000 Scope of part.

This part sets forth the regulations governing employee travel and relocation allowances. Included in this part are the regulations for per diem, travel, and transportation expenses of employees and their immediate families; household goods movement and residence transaction expenses; reductions in payments incident to training at non-Government facilities and attendance at meetings; travel and transportation expenses when an employee dies while in travel status; and the commuted rate schedule for expenses incident to movement of employee household goods.

§ 101-7.001 Authority.

These regulations are issued under the authority of paragraphs (1) through (13) and (19) of section 1 of Executive Order 11609, July 22, 1971 (36 FR 13747), and section 2 of Executive Order 11012, March 27, 1962 (27 FR 2983), which assign to the Administrator of General Services the responsibility for prescribing and promulgating regulations governing:

(a) Reductions in Government payments for travel and subsistence when employees receive contributions, awards, or payments as authorized under 5 U.S.C. 4111;

(b) Travel allowances authorized under 5 U.S.C. 5701-5709;

(c) Travel and transportation expenses and other allowances authorized under 5 U.S.C. 5721-5733 and 20 U.S.C. 905; and

(d) Transportation of remains of deceased employees and their dependents and effects under 5 U.S.C. 5741 and 5742.

§ 101-7.002 Applicability.

These regulations apply to employees of the United States whose travel expenses are authorized under 5 U.S.C. 5701-5709. These regulations also apply to persons employed intermittently as consultants or experts who receive compensation on a per diem, when-actually-employed basis, and to persons serving without compensation, to the extent authorized under 5 U.S.C. 5703.

§ 101-7.003 Incorporation by reference.

(a) *Federal Travel Regulations.* The regulations issued under authority of this Part 101-7 are published in the GSA publication, "Federal Travel Regulations," printed in handbook format, and are hereby incorporated by reference into the Federal Property Management Regulations. The Federal Travel Regulations, including changes thereto, are distributed to heads of agencies by means of GSA Bulletin FPMR A-40.

(b) *Commuted rate schedule for transportation of household goods.* The schedule of commuted rates to be used in reimbursing civilian employees of the U.S. Government for transportation, temporary storage, and related expenses incurred in moving their household goods (in accordance with the provisions of chapter 2 of the Federal Travel Regulations), issued under the authority of this Part 101-7, is published in GSA Bulletin FPMR A-2, Commuted Rate Schedule for Transportation of Household Goods, and is hereby incorporated by reference into the "Federal Property Management Regulations."

PART 101-8—[RESERVED]

APPENDIX TO SUBCHAPTER A—TEMPORARY REGULATIONS

[EDITORIAL NOTE: The following is a list of temporary regulations except delegations of authority, which relate to Federal property management and are in effect as of the revision date of this volume]

FPMR Temporary Regulations	Subject	Expires	FR Publication
A-11	Changes to Federal Travel Regulations.	July 1, 1981	40 FR 22182, May 21, 1975.
A-11, Supp. 4	do	do	42 FR 23676, May 10, 1977.
A-11, Supp. 8	do	do	44 FR 37930, June 29, 1979.
A-11, Supp 9	do	do	45 FR 27437, Apr. 23, 1980. 45 FR 29294, May 2, 1980 45 FR 37199, June 2, 1980.
A-11, Supp. 10	do	do	45 FR 44953, July 2, 1980.
A-11, Supp. 11	do	do	45 FR 65146, Oct. 1, 1980.
[1] A-17	Use of contract airline service between selected city-pairs.	July 1, 1982	46 FR 1731, Jan. 7, 1981.
[1] A-18	Agency requirements for the collections of Fiscal Year 1980 and Fiscal Year 1981 travel cost data.	June 30, 1982	46 FR 7982, Jan. 26, 1981.

[1] These temporary regulations appear in full text below.

[FPMR TEMP. REG. A-17]

DECEMBER 31, 1980.

USE OF CONTRACT AIRLINE SERVICE BETWEEN SELECTED CITY-PAIRS

1. *Purpose.* This regulation prescribes policies, procedures, and requirements applicable to Federal agencies when scheduled airline passenger transportation service is needed for official travel between selected cities (city-pairs).

2. *Effective date.* This regulation is effective on January 1, 1981.

3. *Expiration date.* This regulation expires on January 1, 1982, unless superseded or canceled.

4. *Background.*

a. The General Services Administration, Transportation and Public Utilities Service (TPUS), has increased the number of city-pairs and has expanded the scope of airline contracts with certificated air carriers to furnish air passenger transportation for official Government travel at reduced fares.

b. Except for the travel conditions indicated in paragraph 10b, the Government has agreed to place all of its official air travel with the contractor air carriers providing scheduled service between the city-pairs listed in the attachment A.

5. *Scope.*

A. This regulation applies to executive and other Federal agencies to the extent specified in the Federal Property and Administrative Services Act of 1949, as amended, and 5 U.S.C. 5701 et seq.

b. The Department of Defense (DOD) shall follow the procedures established in the Military Traffic Management Regulation (AR 55-355/NAVSUP 4600.70/MCO P4600.14A/DLAR 4500.3).

c. Uniformed members of the Public Health Service; the National Oceanic and Atmospheric Administration; the U.S. Coast Guard; employees of the Judicial Branch of the Government; the U.S. Postal Service; Foreign Service Officers; cost reimbursable contractors working for the Government; and employees of any agency having independent statutory authority to prescribe travel allowances and who are not subject to 5 U.S.C 5701-5709 are exempt from the mandatory use of this contract. However, all exempt personnel are authorized and encouraged to obtain contract services when acceptable to the contract airline.

6. *Applicability.* The provisions of this regulation are mandatory for all official travel by air between the city-pairs listed in attachment A.

7. *Carrier requirements.* The contractor shall not be required to furnish services if, at the time of the request for services, the scheduled aircraft is fully booked, nor shall the contractor be required to furnish any additional aircraft to satisfy the transportation requirement. However, the contractor will provide the official Government traveler with the same services, including meals, as provided to its commerical passengers in scheduled jet coach service or better, subject to the rules and procedures published in the air carrier's tariffs on file with the Civil Aeronautics Board. The carrier will make reservations for Government travelers on the same basis as for regular coach service travelers and shall not discriminate in favor of the commerical traveler.

8. *Procedures for obtaining service.*

a. Contract air service shall be ordered by the issuance of Standard Form 1169, U.S. Government Transportation Request (GTR). If cash is used in the absence of a GTR under the provisions of FPMR 101-41.203-2, participating airline carriers may furnish contract fares at their option. If the contract carriers do not provide contract fares with the use of cash, the required service may be procured at the noncontract fare.

b. Agencies may obtain airline schedules and reservations for each specified city-pair through the use of the individual airline telephone number(s) listed in attachment A. When requesting reservations, the trip shall be identified as official Government business and the carrier's ticket agent shall be instructed to apply the appropriate contract fare. Agencies using teletype ticketing equipment should examine airline tickets to determine whether the correct contract fare has been applied. Improperly rated or fared tickets shall be canceled and new tickets shall be requested. Tickets picked up at airline ticket offices should be verified to ensure that the proper contract-air-class-of-service symbol is shown on the ticket.

c. When the contract carrier offers a fare to the general public between the city-pairs listed in attachment A which is lower than the contract fare, the ordering agency may elect to use such lower fare instead of the contract fare. These lower fares may be used provided they do not alter the position of the contractors with respect to their use in progressive order as specified in paragraph 8e.

d. Contract fares apply only between the cities named and are not applicable to or from intermediate points; however, the Government may use the contract fare in conjunction with other published fares, including other contract fares. Under this provision, carriers will provide through ticketing and service.

e. Agencies shall request reservations from the contract airline offering the lowest contract fare for the appropriate city-pair, as shown in attachment A. If that carrier cannot provide the required service, the carrier(s) offering the next lower fare in progressive order shall be used. For example, carriers A and B offer service at $65 and $70 respectively. If carrier A cannot provide transportation service at $65, carrier B will be requested to furnish service at $70.

f. The use of connecting flights is encouraged where contract carriers do not provide through service and this connection produces lower transportation costs than direct flights using noncontract carriers. However, agencies are cautioned that lower transportation costs may be offset by increased travel costs, such as per diem, subsistence, allowable overtime, or lost productive time due to layovers. For example, if direct service from San Francisco, California, to Washington, DC, is not available from a contract carrier, a noncontract carrier may be used to the closest connecting city offering service (i.e., Salt Lake City, Utah; Denver, Colorado; or Los Angeles, California); then, a contract carrier may be used to Washington, DC. In these cases, when making reservations with a noncontract carrier, the ticket agent should be advised of the portion(s) of the trip that will be taken at the reduced contract fare.

g. If service by contract carriers is provided at different airports but still between the same city-pair listed in attachment A, the lowest overall cost, including the contract fare, lost productive time, and ground transportation will determine which carrier will be used.

9. *Class of service identification.* The contract air class of service designated by each contract carrier as shown in attachment A shall be shown on all Standard Forms 1169, U.S. Government Transportation Request, and airline tickets.

10. *Airline service using noncontract carriers instead of contract carriers.*

a. Heads of agencies may delegate authority to authorize or approve the use of noncontract air carriers when justified under the conditions listed in paragraph b, below. This authority shall be held to as high an administrative level as practicable to ensure adequate consideration and review of the circumstances of the travel assignment and to ensure complicance with this regulation.

b. Justification for the use of air carriers other than those shown in attachment A is limited to the following conditions, which shall be certified on individual travel orders or vouchers by the authorizing official:

(1) Airline seating capacity on any scheduled flight of the contract carrier is not available in sufficient time to accomplish the purpose of the travel, or the use of the carrier's flight would require additional overnight lodging;

(2) The scheduled flight of the contract carrier is not compatible with the agency policies and practices regarding travel during regularly scheduled workhours. (For further information, see the Federal Personnel Manual, Supplement 990-2);

(3) On the basis of a comparison of total costs for each individual trip, the use of a standard class jet coach (Y class) airline fare in existence on October 15, 1980, is less costly to the Government, considering such factors as actual transportation cost, subsistence, allowable overtime, or lost productive time; or

(4) Exigency or other requirements of the mission necessitate the use of another airline carrier or mode of transportation.

11. *Collective agreements.* This regulation shall not be interpreted to nullify any valid, negotiated agreement between management and a union covering any provision of employee travel in effect on the effective date of this regulation. Upon the expiration of agreements exempted, the provisions of this regulation shall apply.

12. *Comments.* Comments and recommendations concerning the use of this regulation and its provisions may be submitted to the General Services Administration, Office of Transportation and Travel Management (TT), Washington, DC 20406.

13. *Cancellation.* FPMR Temporary Regulation A-15, dated June 30, 1980, is canceled December 31, 1980.

14. *Effect and other directives.* In supplement 10, FPMR Temporary Regulation A-11, all references to A-15 shall be changed to A-17.

RAY KLINE,
Acting Administrator of General Services.

ATTACHMENT A

	Lowest standard Y class jet coach fare (as of Oct. 15, 1980)	Contract fare and airline (See note:)
City-Pairs (between) Washington, DC; and:		
Chicago, IL	$128	$79—ML 100—NW
Dallas-Ft. Worth, TX	206	125—TI 158—BN
Houston, TX	208	113—BN 125—TI
Kansas City, MO	179	131—ML
Memphis, TN	151	140—BN
Miami, FL	171	119—QH 125—PA
New Orleans, LA	183	128—TI
New York, NY	58	29—NS 40—NW 42—BN
Oklahoma City, OK	228	171—TI 200—BN
Orlando, FL	156	115—PA
Phoenix, AZ	312	272—BN
Salt Lake City, UT	297	229—BN
San Antonio, TX	237	145—TI 168—BN
St. Louis, MO	149	114—ML 120—OZ
Tucson, AZ	310	279—BN

ATTACHMENT A—Continued

	Lowest standard Y class jet coach fare (as of Oct. 15, 1980)	Contract fare and airline (See note:)
City-Pairs (between) Chicago, IL; and:		
Cleveland, OH	83	53—ML
Detroit, MI	73	44—ML
Kansas City, MO	113	68—ML 88—BN
Oklahoma City, OK	160	137—BN
St. Louis, MO	70	46—ML
Dallas/Ft. Worth, TX; and:		
Albuquerque, NM	139	52—TI
Atlanta, GA	151	127—BN
El Paso, TX	140	52—TI
Houston, TX	71	23—QH 24—BN
Little Rock, AR	86	59—TI
New Orleans, LA	104	52—TI 53—BN
Oklahoma City, OK	52	34—BN 35—TI
Denver, CO/Salt Lake City, UT	96	40—BN 59—TI
Kansas City, MO/St. Louis, MO	88	55—OZ
Las Vegas, NV/Reno, NV	53	36—BN
Miami, FL/Ft. Myers, FL	53	40—QH
New York, NY/Norfolk, VA	78	48—PA
City-Pairs (between) San Antonio, TX; and:		
Dallas-Ft. Worth, TX	75	35—TI 36—BN
Detroit, MI	215	194—BN
Los Angeles, CA	213	141—BN
New York, NY	264	236—BN
Philadelphia, PA	254	227—BN
St. Louis, MO	158	104—TI
San Francisco/Oakland, CA, and:		
Los Angeles, CA	53	39—WO
Seattle-Tacoma, WA	131	73—AS
Seattle/Tacoma, WA; and:		
Anchorage, AK	184	108—AS
Los Angeles, CA	175	99—NW
Portland, OR	49	25—BN 26—NW
Spokane, WA	66	49—NW
Tucson, AZ/Phoenix, AZ	45	27—BN

Note: Service shall be requested first from the carrier offering the lowest fare, then, the carrier offering the next lowest fare, etc.

Because of economic conditions, the Standard Industry Fare Level (SIFL), as provided by the Civil Aeronautics Board, may be increased or decreased during the period of this contract. The contract fare, which reflects the SIFL, will be adjusted to reflect the percentage change.

Contract Airline Codes, Names, Reservation Telephone Numbers, and Class of Service Codes

AS Alaska Airlines, Inc: Class of service code—YDG

Toll Free

Continental U.S.—(800) 426—0333
State of Alaska—(800) 426-7464
State of Washington—(800) 552-0670

Commercial

Anchorage, AK—(907) 243-3300
San Francisco/Oakland, CA—(415) 931-8888
Seattle-Tacoma, WA—(206) 433-3100

BN Braniff Airways, Inc.: Class of service code—YDG

Toll Free

Continental U.S., except State of Texas—(800) 527-2600
State of Texas, except Dallas/Ft. Worth, TX—(800) 492-2950

Commercial

Dallas, TX— (214) 357-5421
Ft. Worth, TX—(817) 335-5818

ML Midway Airlines, Inc.: Class of service code—YDG

Toll Free

Continental U.S., except Illinois—(800) 621-5700
State of Illinois, except Chicago, IL—(800) 572-5688

Commercial

Chicago, IL—(312) 471-4710

NS New York Air: Class of service code—G

Toll Free

Continental U.S., except New York State—(800) 221-9300
State of New York, except New York City—(800) 522-5555

Commercial

New York City—(212) 476-5666

NW Northwest Airlines, Inc.: Class of service code—Y2

Toll Free

Continental U.S., except Minneapolis, MN—(800) 328-7120

Commercial

Minneapolis, MN—(612) 726-1234

OZ Ozark Airlines, Inc.: Class of service code—Y37

Commercial

Kansas City, MO—(816) 471-7383
St. Louis, MO—(314) 739-1111
Washington, DC—(202) 347-4744

PA Pan American World Airways: Class of service code—YDG

Commercial

Miami, FL—(305) 874-5000
New York, NY—(212) 973-4000
Norfolk, VA—(804) 622-1301
Orlando, FL—(305) 422-0701
Washington, DC—(202) 833-1000

QH Air Florida, Inc.: Class of service code—YDG

Toll Free Continental U.S., except Florida—(800) 327-2971

State of Florida—(800) 432-4538

Commercial

Dallas/Ft. Worth, TX—(214) 988-0981
Houston, TX—(713) 621-3700
Miami, FL—(305) 592-8010
Washington, DC—(202) 783-3590

TI Texas International Airlines, Inc.: Class of service code—Y37

Toll Free

Continental U.S., except Texas—(800) 231-0666
State of Texas—(800) 392-6838

Commercial

Albuquerque, NM—(505) 842-5810
Denver, CO—(303) 892-1900
Dallas/Ft. Worth, TX—(214) 268-2300
El Paso, TX—(915) 533-7011
Houston, TX—(713) 821-2100
Little Rock, AR—(501) 376-3333
New Orleans, LA—(504) 581-2965
Oklahoma City, OK—(405) 236-5058
Salt Lake City, UT—(801) 364-4383
San Antonio, TX—(512) 225-5805
St. Louis, MO—(314) 241-7205
Washington, DC—(202) 347-4777

WO World Airways, Inc.: Class of service code—YDG

Toll Free

Continental U.S., except California—(800) 227-2297
State of California—(800) 772-2643

Commercial

Los Angeles, CA—(213) 646-9404
San Francisco/Oakland, CA—(314) 577-2500

[46 FR 1731, Jan. 7, 1981; 46 FR 9585, Jan. 29, 1981]

[FPMR TEMP. REG. A-18]

JANUARY 21, 1981.

AGENCY REQUIREMENTS FOR THE COLLECTION OF FISCAL YEAR 1980 AND FISCAL YEAR 1981 TRAVEL COST DATA.

1. *Purpose.* This regulation prescribes procedures and requirements for the reporting of agency travel cost data by selected Federal agencies for Fiscal year 1980 and Fiscal year 1981 pursuant to Pub. L. 96-346.

2. *Effective date.* This regulation is effective immediately upon publication in the FEDERAL REGISTER.

3. *Expiration date.* This regulation expires June 30, 1982, unless superseded or canceled on an earlier date.

4. *Background.*

a. Public Law 96-346, approved September 10, 1980, requires that the Administrator of General Services shall, based upon a sampling survey, collect by fiscal year the following information (compiled separately for payments made under sections 5702 and 5704 of title 5, U.S. Code, and for each agency evaluated) with respect to agencies spending more than $5 million annually on transportation of people:

(1) Identification of the general causes and purposes of travel, both foreign and domestic, estimates of total payments, average cost and duration of trip, and an explanation of how these estimates were determined; and

(2) Identification by specific agency of travel practices which appear to be inefficient from a travel management or program management standpoint and recommendations to the Congress on the applicability of alternatives to travel as well as other techniques to improve the use of travel in carrying out program objectives by relating travel to mission.

b. The Administrator is required to report the above information to the Congress for Fiscal Year 1979 by February 1, 1981; for Fiscal Year 1980 by June 1, 1981; and for Fiscal Year 1981 by June 1, 1982.

c. Public Law 96-346 empowers the Administrator to issue such rules and regulations as are necessary to ensure that the information is submitted by the various agencies to GSA in a manner that permits comparisons among the agencies and to permit the compilation of information required to be included in the annual report.

5. *Scope.* This regulation applies to any Federal agency, as defined in 5 U.S.C. 5701(1), expending more than $5 million annually on the transportation of people.

6. *Applicability.* This regulation applies specifically to those selected agencies listed in Attachment A to this regulation. These agencies were selected on the basis of Fiscal Year 1979 expenditures. This regulation also applies to any Federal agency that is within the scope of this regulation for Fiscal Year 1980 and Fiscal Year 1981 expenditures and not specifically listed in Attachment A.

7. *Submission requirements.* The travel cost data, documents and information required by this regulation shall be submitted by the Heads of those agencies listed in Attachment A (see item 6, Applicability, above), to the General Services Administration, TPUS (TTT), Room 3112, 425 I Street NW, Washington, D.C. 20406. The required data shall be submitted as soon as possible after the close of Fiscal Year 1980 and Fiscal Year 1981 but in no case later than February 15, 1981, and 1982, respectively. Those agencies not submitting the data in a timely manner or as required by this regulation will, of necessity, be reported to the Congress as delinquent.

8. *Reporting requirements.* Actual reporting requirements in the form of a travel management questionnaire and instructions for a travel voucher survey will be forwarded to each affected agency by the Commissioner, Transportation and Public Utilities Service (TPUS), as soon as possible after publication of this regulation. An Interagency Report Control Number will be assigned to this reporting requirement in accordance with FPMR 101-11.11 and will be transmitted to agencies along with reporting instructions by the Commissioner, TPUS.

9. *Points of contact.* Heads of affected agencies shall immediately appoint a designee at the headquarters level who will be responsible for receiving reporting requirement instructions and to ensure that such instructions are complied with in a timely manner. The name, address, and telephone number of the designated individuals shall be submitted by telephone within 2 weeks of the publication date of this regulation to W. F. McDade, Director, or Audrey Rish, Deputy Director, Federal Travel Management Division, TPUS; FTS telephone 275-0651.

RAY KLINE,
Acting Administrator of General Services.

ATTACHMENT A—FEDERAL AGENCIES SELECTED TO PARTICIPATE IN SAMPLING OF FISCAL YEAR 1980 TRAVEL VOUCHERS

Department of Agriculture
Department of Commerce
Department of Defense
Department of Education
Department of Energy
Department of Health and Human Resources
Department of Housing and Urban Development
Department of Interior
Department of Justice
Department of Labor
Department of State
Department of Transportation
Department of the Treasury
Environmental Protection Agency
National Aeronautics and Space Administration
Veterans Administration
Federal Home Loan Bank Board
General Accounting Office
General Services Administration
International Communications Agency
Nuclear Regulatory Commission
Office of Personnel Management
Small Business Administration
Tennessee Valley Authority
ACTION

[46 FR 7982, Jan. 26, 1981]

SUBCHAPTER B—ARCHIVES AND RECORDS

PARTS 101-9—101-10 [RESERVED]

PART 101-11—RECORDS MANAGEMENT

Sec.
101-11.000 Scope of part.

Subpart 101-11.1—Federal Records; General

101-11.101 General provisions.
101-11.101-1 Authority.
101-11.101-2 Applicability.
101-11.101-3 Records defined.
101-11.101-4 Reports to the Congress and the Director of the Office of Management and Budget.
101-11.101-5 Inspection of records subject to the Privacy Act of 1974.
101-11.102 Agency records management programs.
101-11.102-1 Authority.
101-11.102-2 Program content.
101-11.102-3 Creation of records.
101-11.102-4 Organization, maintenance, and use of records.
101-11.102-5 Disposition of records.
101-11.102-6 Liaison offices.
101-11.102-7 Annual summary of records holdings.
101-11.103 Agency program evaluation.
101-11.103-1 Authority.
101-11.103-2 Evaluation by National Archives and Records Service.
101-11.103-3 Agency internal evaluation.
101-11.103-4 Agency evaluation review and followup procedures.
101-11.104 Interagency program evaluations and studies.

Subpart 101-11.2—Creation of Records

101-11.200 Scope of subpart.
101-11.201 General provisions.
101-11.201-1 Agency action.
101-11.202 Adequate and proper documentation.
101-11.202-1 Statutory responsibilities.
101-11.202-2 Documentation standards.
101-11.203 Creating records essential for current business.
101-11.203-1 Statutory responsibilities.
101-11.203-2 General requirements.
101-11.204—101-11.205 [Reserved]
101-11.206 Correspondence—agency program responsibilities.
101-11.206-1 Correspondence management function.
101-11.206-2 Correspondence defined.
Sec.
101-11.206-3 Program requirements.
101-11.206-4 Program implementation.
101-11.207 Reports—agency program responsibilities.
101-11.207-1 Reports management function.
101-11.207-2 Definitions.
101-11.207-3 Program requirements.
101-11.207-4 Program implementation.
101-11.208 Forms—agency program responsibilities.
101-11.208-1 The forms management function.
101-11.208-2 Forms defined.
101-11.208-3 Program requirements.
101-11.208-4 Program implementation.
101-11.209 Directives management.
101-11.209-1 Scope.
101-11.209-2 Authority.
101-11.209-3 Definitions.
101-11.209-4 Objectives.
101-11.209-5 Agencies' responsibilities.
101-11.209-6 Additional information.
101-11.210 Automatic data processing records; agency program responsibilities.
101-11.210-1 ADP records management function.
101-11.210-2 ADP records management defined.
101-11.210-3 Program requirements.
101-11.210-4 Program implementation.

Subpart 101-11.3—Organization, Maintenance, and Use of Current Records

101-11.301 General provisions.
101-11.301-1 Authority.
101-11.301-2 Agency action.
101-11.302—101-11.303 [Reserved]
101-11.304 Mail—agency program responsibilities.
101-11.304-1 The mail management function.
101-11.304-2 Mail defined.
101-11.304-3 Program requirements.
101-11.304-4 Program implementation.
101-11.305 Files—agency program responsibilities.
101-11.305-1 The files management function.
101-11.305-2 Files defined.
101-11.305-3 Program requirements.
101-11.305-4 Program implementation.
101-11.306 Records equipment and supplies—agency program responsibilities.
101-11.306-1 Managing records equipment and supplies.
101-11.306-2 Records equipment and supplies defined.
101-11.306-3 Program requirements.
101-11.306-4 Program implementation.

Subpart 101-11.3a—Declassification of and Public Access to National Security Information

Sec.
101-11.320 General provisions.
101-11.321 Public requests for review of classified material.
101-11.322 Mandatory review procedures.
101-11.322-1 Records 10 through 30 years old.
101-11.322-2 Records more than 30 years old.
101-11.322-3 White House classified material.
101-11.323 Access to materials that remain classified.
101-11.324 Liaison.

Subpart 101-11.4—Disposition of Federal Records

101-11.401 Scope of subpart.
101-11.402 Definition.
101-11.403 Records disposition programs.
101-11.403-1 Authority.
101-11.403-2 Basic elements of disposition programs.
101-11.404 Records disposition schedules and disposal lists.
101-11.404-1 Comprehensive agency records disposition schedules.
101-11.404-2 General Records Schedules.
101-11.404-3 Records disposal lists.
101-11.405 Disposition of permanent records.
101-11.405-1 Authority.
101-11.405-2 Definition of permanent records.
101-11.405-3 Submission of recommendations for the permanent retention of records.
101-11.405-4 Approval of the permanent retention of records.
101-11.405-5 Disapproval of the permanent retention of records.
101-11.406 Disposition of temporary records.
101-11.406-1 Authority.
101-11.406-2 Definition of temporary records.
101-11.406-3 Requests for authorization to dispose of temporary records.
101-11.406-4 General Accounting Office clearance.
101-11.406-5 Approval of requests for disposal authority.
101-11.406-6 Withdrawal of disposal authority.
101-11.406-7 Request to change disposal authority.
101-11.406-8 Temporary extension of retention periods.
101-11.406-9 Methods of disposal.
Sec.
101-11.407 Emergency authorization to destroy records.
101-11.407-1 General provisions.
101-11.407-2 Menaces to human life or health or to property.
101-11.407-3 State of war or threatened war.
101-11.408 Damage to and unauthorized disposition of records.
101-11.408-1 Responsibilities.
101-11.408-2 Penalties.
101-11.408-3 Reporting.
101-11.408-4 Exclusions.
101-11.409 Transfer of records from the custody of one executive agency to another.
101-11.409-1 Authority.
101-11.409-2 Approval.
101-11.409-3 Agency request.
101-11.409-4 Agency concurrences.
101-11.409-5 Records of terminated agencies.
101-11.409-6 Equipment.
101-11.409-7 Costs of transfers.
101-11.409-8 Restrictions on use of records.
101-11.409-9 Exceptions.
101-11.410 Transfer of records to Federal records centers.
101-11.410-1 Authority.
101-11.410-2 Procedures for transfers to Federal records centers.
101-11.410-3 Transfers to the National Personnel Records Center.
101-11.410-4 Transferring vital records to Federal records centers.
101-11.410-5 Surveying records for transfer to records centers.
101-11.410-6 Release of equipment.
101-11.410-7 Use of records in Federal records centers.
101-11.410-8 Disposal clearances for records in Federal records centers.
101-11.411 Transfer of records to the National Archives.
101-11.411-1 National Archives defined.
101-11.411-2 Authority.
101-11.411-3 Types of records to be transferred.
101-11.411-4 Audiovisual records.
101-11.411-5 Cartographic and architectural records.
101-11.411-6 Machine-readable records.
101-11.411-7 Transfer of records listed in records control schedules.
101-11.411-8 Transfer of unscheduled records.
101-11.411-9 Records subject to the Privacy Act of 1974.
101-11.411-10 Release of equipment.
101-11.411-11 Use of records transferred to the National Archives.
101-11.411-12 Disposal clearances.
101-11.412 Agency records centers.

Sec.
101-11.412-1 Authority.
101-11.412-2 Facility standards for agency records centers.
101-11.412-3 Requests for authority to establish or relocate records centers.

Subpart 101-11.5—Micrographics

101-11.500 Scope of subpart.
101-11.501 Authority.
101-11.502 Definitions.
101-11.503 Agency program responsibilities.
101-11.504 NARS responsibilities.
101-11.505 Micrographic systems analysis.
101-11.506 Standards and guidelines for creation of microform records.
101-11.506-1 Authorization.
101-11.506-2 Preparation.
101-11.506-3 Microfilming.
101-11.507 Standards and guidelines for the maintenance of microform records.
101-11.507-1 Storage.
101-11.507-2 Inspection.
101-11.508 Standards and guidelines for the use of microform records.
101-11.509 Disposition of microform records.
101-11.510 Centralized micrographic services.
101-11.510-1 Services available.
101-11.510-2 Requesting services.
101-11.510-3 Fees for services.

Subpart 101-11.6—Records Equipment and Supplies

101-11.601—101-11.602 [Reserved]
101-11.603 Stationery standards.
101-11.603-1 General provisions.
101-11.603-2 Standard specifications.
101-11.603-3 Letterhead stationery.
101-11.603-4 Memorandum stationery.
101-11.603-5 Continuation sheets.
101-11.603-6 Manifold (tissue) sheets.
101-11.603-7 [Reserved]
101-11.603-8 Envelopes (printing).
101-11.603-9 Envelopes; borders, markings, etc.
101-11.603-10 Procurement forms.
101-11.603-11 Optional Form 10, United States Government Memorandum, May 1962.
101-11.603-12 Standard Form 63, Memorandum of Call, Nov. 1961.
101-11.603-13 Standard Form 65, U.S. Government Messenger Envelope, Nov. 1961.
101-11.603-14 Optional Form 27, United States Government 2-way Memo.

Subpart 101-11.7—Vital Records: Records During an Emergency

101-11.701 Emergency preparedness program; vital records.
Sec.
101-11.701-1 Purpose.
101-11.701-2 Authority.
101-11.701-3 Background.
101-11.701-4 Definitions.
101-11.701-5 Program considerations.
101-11.701-6 Vital records storage at GSA Federal Archives and Record Centers.

Subpart 101-11.8—Standard and Optional Forms Program

101-11.800 Scope of subpart.
101-11.800-1 Benefits and objectives.
101-11.801 Authority.
101-11.802 Definitions.
101-11.802-1 Form.
101-11.802-2 Standard form.
101-11.802-3 Optional form.
101-11.802-4 Promulgating agency.
101-11.802-5 Sponsoring agency.
101-11.803 Agency program responsibilities.
101-11.804 GSA/NARS responsibilities.
101-11.805 Approval procedures.
101-11.805-1 Standard forms.
101-11.805-2 Optional forms.
101-11.806 Special provisions.
101-11.806-1 Exceptions to Standard forms.
101-11.806-2 Application of Federal Information Processing Standards (FIPS) to Standard and Optional forms.
101-11.806-3 Employee suggestions.
101-11.806-4 Standard and Stock (Optional) forms subject to GAO approval.
101-11.806-5 Standard and Optional forms interface with public reports approved by GAO.
101-11.806-6 Standard and Optional forms interface with public reports approved by OMB.
101-11.806-7 Standard and Optional forms interface with interagency reports approved by GSA.
101-11.806-8 Forms promulgated by the Interagency Committee on Medical Records.
101-11.807 Procurement of stocks of Standard and Optional forms.
101-11.808 Agency compliance.

Subpart 101-11.9—Word Processing

101-11.900 Scope.
101-11.901 Word processing.
101-11.902 Equipment.
101-11.903 Federal agency program responsibilities.
101-11.904 NARS responsibilities.

Subpart 101-11.10—Technical Assistance

Sec.
101-11.1000 Scope.
101-11.1001 Services available.
101-11.1002 Technical advice and assistance on records management programs.
101-11.1003 Technical assistance involving studies and surveys.
101-11.1004 General paperwork systems studies.
101-11.1005 Requests for service.

Subpart 101-11.11—Interagency Reports Management Program

101-11.1100 Scope of subpart.
101-11.1100-1 Benefits and objectives.
101-11.1101 Authority.
101-11.1102 Definitions.
101-11.1102-1 Report.
101-11.1102-2 Reporting.
101-11.1102-3 Interagency reporting requirement.
101-11.1102-4 Agency.
101-11.1102-5 Requiring agency.
101-11.1102-6 Responding agency.
101-11.1102-7 Interagency Reports Coordinator.
101-11.1103 Agency program responsibilities.
101-11.1104 GSA/NARS responsibilities.
101-11.1105 Approval procedures.
101-11.1105-1 New and revised interagency reporting requirements.
101-11.1105-2 Discontinuance of interagency reporting requirements.
101-11.1105-3 Review and extension of interagency reporting requirements.
101-11.1106 Cost-effectiveness justification.
101-11.1106-1 Reporting costs.
101-11.1106-2 Cost estimates.
101-11.1106-3 Benefits.
101-11.1107 Special provisions.
101-11.1107-1 Exemptions.
101-11.1107-2 Waivers.
101-11.1107-3 Appeal procedure.
101-11.1107-4 Federal Information Processing Standards.
101-11.1107-5 Classified reporting requirements.
101-11.1107-6 Interagency public reports.
101-11.1107-7 Interagency reporting coordination with public reports approved by OMB or GAO.
101-11.1107-8 Interagency reporting coordination with Standard and Optional forms approved by GSA/NARS.
101-11.1107-9 Department of the Treasury procedures.
101-11.1108 Procurement of stocks of SF 360 and OF 101.
101-11.1109 Agency compliance.

Subpart 101-11.12—Annual Report on Federal Advisory Committees

Sec.
101-11.1200 Scope of subpart.
101-11.1201 Background.
101-11.1202 Definitions.
101-11.1203 Reports.
101-11.1204 [Reserved]
101-11.1205 Inquiries.

Subpart 101-11.13—Audiovisual Records Management

101-11.1300 Scope.
101-11.1301 Definitions.
101-11.1302 Objectives.
101-11.1303 Agency program responsibilities.
101-11.1304 Centralized audiovisual services.

Subparts 101-11.14—101-11.48 [Reserved]

Subpart 101-11.49—Forms and Reports

101-11.4900 Scope of subpart.
101-11.4901 Standard Form 136: Annual Summary of Records Holdings.
101-11.4902 Standard Form 115: Request for Authority to Dispose of Records.
101-11.4903 Standard Form 115a: Request for Authority to Dispose of Records—Continuation Sheet.
101-11.4904 Instructions for preparing Standard Forms 115 and 115a.
101-11.4905 Standard Form 137: Agency Records Center Annual Report.
101-11.4906 Standard Form 127: Request for Official Personnel Folder (Separated Employee).
101-11.4907 Standard Form 135: Records Transmittal and Receipt.
101-11.4908 Standard Form 135a: Records Transmittal and Receipt—(Continuation).
101-11.4909 [Reserved]
101-11.4910 Optional Form 11: Reference Request—Federal Records Centers.
101-11.4911 GSA Form 10: United States Government Memorandum.
101-11.4912 Optional Form 10: United States Government Memorandum.
101-11.4913 Standard Form 63: Memorandum of Call.
101-11.4914 Standard Form 65: U.S. Government Messenger Envelope.
101-11.4915 Optional Form 27: United States Government 2-Way Memo.
101-11.4916 "Guides to Simplified Informal Correspondence".
101-11.4917—101-11.4919 [Reserved]
101-11.4920 Standard Form 152: Request for Clearance, Procurement, or Cancellation of Standard and Optional Forms.

Sec.
101-11.4921 Standard Form 180: Request Pertaining to Military Records.
101-11.4922 Standard Form 360: Request for Clearance of an Interagency Reporting Requirement.
101-11.4930-248 Standard Form 248: Annual Report on Federal Advisory Commitee.
101-11.4930-248-A Standard Form 248-A: Annual Report on Federal Advisory Committee (continuation sheet).
101-11.4930-249 Standard Form 249: Membership List on Federal Advisory Committee.
101-11.4930-249-A Standard Form 249-A: Membership List on Federal Advisory Committee (continuation sheet).
101-11.4930-250 Standard Form 250: Annual Report on Federal Advisory Committee Summary Sheet.
101-11.4930-282 Standard Form 282: Mandatory Title Check.
101-11.4931 Standard Form 202: Federal Audivisual Production Report.
101-11.4932 Standard Form 203: Annual Audiovisual Report.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), unless otherwise noted.

SOURCE: 29 FR 16807, Dec. 8, 1964, unless otherwise noted.

§ 101-11.000 Scope of part.

This part prescribes policies and promulgates standards, procedures, and techniques for the economical and efficient management of records of Federal agencies.

Subpart 101-11.1—Federal Records; General

§ 101-11.101 General provisions.

§ 101-11.101-1 Authority.

The regulations in this subpart are issued pursuant to the authority contained in the Act of July 7, 1943, as amended (44 U.S.C. 366-376, 378-380), hereinafter referred to as the Records Disposal Act, and the records provisions of the Federal Property and Administrative Services Act of 1949, as amended (44 U.S.C. 391-396, 397-401).

§ 101-11.101-2 Applicability.

The regulations in this subpart apply to all Federal agencies to the extent provided in the Acts cited in § 101-11.101-1, except that the disposal of court records shall be in accordance with the provisions of 28 U.S.C. 457. Section 3 of the Federal Property and Administrative Services Act (40 U.S.C. 472) defines "Federal agency" as "any executive agency or any establishment in the legislative or judicial branch of the Government (except the Senate, House of Representatives, and the Architect of the Capitol and any activities under his direction)." The same section defines "executive agency" as "any executive department or independent establishment in the executive branch of the Government, including any wholly owned Government corporation."

§ 101-11.101-3 Records defined.

(a) Section 1 of the Records Disposal Act (44 U.S.C. 366) defines the term "records," as applied to the disposition of records, to include "all books, papers, maps, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by any agency of the United States Government in pursuance of Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data contained therein. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents are not included within the definition of the word 'records' * * *."

(b) This definition also applies to the term "records" when used in the Federal Records Act of 1950, by virtue of section 511(a) thereof (44 U.S.C. 41(a)). The Federal Records Act of 1950 was enacted as Title V (sections 501-511) of the Federal Property and Administrative Services Act of 1949, as amended (44 U.S.C. 391-396, 397-401).

§ 101-11.101-4 Reports to the Congress and the Director of the Office of Management and Budget.

Section 2904 of Title 44, United States Code (the Federal Records Management Amendments of 1976) requires the Administrator of General Services to report to the Congress and to the Director of the Office of Management and Budget annually on the results of records management activities, including evaluations of responses by Federal agencies to any recommendations resulting from studies or inspections conducted by GSA (44 U.S.C. 2904(10)).

[42 FR 56120, Oct. 21, 1977]

§ 101-11.101-5 Inspection of records subject to the Privacy Act of 1974.

Section 2906 of Title 44, United States Code (the Federal Records Management Amendments of 1976) provides that when the Administrator or his designee inspects an agency record which is contained in a system of records subject to Section 552a of Title 5, United States Code (the Privacy Act of 1974) the records shall be (a) maintained by the Administrator or his designee as a record contained in a system of records or (b) considered to be a record contained in a system of records for purposes of subsections (b), (c), and (i) of Section 552a of Title 5, United States Code.

[42 FR 56120, Oct. 21, 1977]

§ 101-11.102 Agency records management programs.

§ 101-11.102-1 Authority.

Section 506(b) of the Federal Records Act of 1950 (44 U.S.C. 396(b)) requires the head of each Federal agency to establish and maintain an active, continuing program for the economical and efficient management of the records of the agency.

§ 101-11.102-2 Program content.

Agency programs shall, among other things, provide for:

(a) Effective controls over the creation, the organization, maintenance and use, and the disposition of all agency records.

(b) Cooperation with GSA in developing and applying standards, procedures, and techniques designed to improve the management of records, assure the maintenance and security of records of continuing value, and facilitate the segregation and disposal of all records of temporary value.

(c) Compliance with the provisions of the Federal Records Act of 1950 and with the regulations issued thereunder.

(d) Compliance with § 101-25.104-2 in connection with the moratorium on the purchase of new filing cabinets.

[29 FR 16807, Dec. 8, 1964, as amended at 30 FR 4757, Apr. 14, 1965]

§ 101-11.102-3 Creation of records.

Adequate records management controls over the creation of agency records shall be instituted to insure that important policies and decisions are adequately recorded; that routine operational paper work is kept to a minimum; and that the accumulation of unnecessary files is prevented. Effective techniques to be applied in this area include the application of systems for the control of correspondence, forms, directives and issuances, and reports; the minimizing of duplicate files; and the disposal without filing of transitory material that has no value for record purposes.

§ 101-11.102-4 Organization, maintenance, and use of records.

Provision shall be made for the continued analysis and improvement of such matters as mail handling and routing, record classification and indexing systems, the use of filing equipment and supplies, the reproduction and transportation of records, and work production standards relating thereto, to insure that records are maintained economically and efficiently and in such a manner that their maximum usefulness is attained.

§ 101-11.102-5 Disposition of records.

Provision shall be made to insure that records of continuing value are preserved but that records no longer of current use to an agency are promptly disposed of or retired. Effective techniques for accomplishing these ends are the development of records control schedules; the transfer of records to records centers and to the National Archives; the microfilming of appropriate records; and the disposal of valueless records.

§ 101-11.102-6 Liaison offices.

Responsibility for the development of the records management program shall be specifically assigned to an office or offices within each Federal agency. The office to which the major responsibility is assigned shall be reported for liaison purposes to the National Archives and Records Service. The name and title of the official who is authorized by the head of the agency to approve disposition schedules and transfers of records to the custody of the National Archives should be submitted to the General Services Administration (NC), Washington, DC 20408.

[45 FR 5705, Jan. 24, 1980]

§ 101-11.102-7 Annual summary of records holdings.

Each Federal agency shall submit to the National Archives and Records Service within 30 days after the close of each fiscal year a summary of its records holdings on Standard Form 136, Annual Summary of Records Holdings. (See § 101-11.4901.) Agencies are required to certify on SF 136 the status of their records control schedules. Instructions for preparing the report are on the form. Separate reports shall be submitted for each bureau or comparable organizational unit.

[41 FR 3739, Jan. 26, 1976]

§ 101-11.103 Agency program evaluation.

§ 101-11.103-1 Authority.

(a) Section 2906 of Title 44, United States Code (the Federal Records Management Amendments of 1976) authorizes the Administrator of General Services or his designee to inspect the records or the records management practices and programs of any Federal agency solely for the purpose of rendering recommendations for the improvement of records management practices and programs.

(b) Section 2904 of Title 44, United States Code (the Federal Records Management Amendments of 1976) requires the Administrator of General Services to report annually to the Congress and to the Director of the Office of Management and Budget on evaluations of responses by Federal agencies to inspections recommendations. (See § 101-11.101-4.)

[42 FR 56120, Oct. 21, 1977]

§ 101-11.103-2 Evaluation by National Archives and Records Service.

Agency programs for controlling the creation, maintenance, and use of current records; for the selective retention of records of continuing value; and for the disposal of noncurrent records will be inspected periodically by the National Archives and Records Service. The objectives of these inspections are to:

(a) Determine agency compliance with the provisions of the Records Disposal Act, as amended, and the Federal Records Act of 1950, as amended.

(b) Determine agency compliance with the regulations set forth in this Subpart 101-11.1.

(c) Evaluate the effectiveness of agency records management programs and practices.

[29 FR 16807, Dec. 8, 1964, as amended at 42 FR 56121, Oct. 21, 1977]

§ 101-11.103-3 Agency internal evaluation.

Each agency should periodically inspect their records management programs within the agency, with the frequency and depth permitted by the agency's resources. These inspections should have objectives similar to those listed in § 101-11.103-2, and should be designed to complement the inspections performed by the National Archives and Records Service. Criteria for agency self-inspection are available from the National Archives and Records Service.

§ 101-11.103-4 Agency evaluation review and followup procedures.

(a) A Federal agency has a maximum of 60 calendar days to comment on the factual content of a draft evaluation report.

(b) A Federal agency shall submit an action plan to the Archivist of the United States implementing the recommendations in an evaluation report not later than 90 calendar days after the date of transmittal of the final report to the agency head. The agency action plan shall include:

(1) Specific action(s) the agency plans to take on each evaluation report recommendation. If an agency does not plan to implement a recommendation, the rationale for not acting shall be documented in the action plan; and

(2) Proposed month and year for completing each planned action.

(c) A Federal agency shall submit an action plan implementation progress report every 6 months to the Archivist of the United States until the agency action plan is implemented. Interagency report control number 0153-GSA-AR has been assigned to this report in accordance with Subpart 101-11.11.

(d) The National Archives and Records Service (NARS) will:

(1) Analyze the adequacy of the agency action plan to implement recommendations contained in the evaluation report;

(2) Provide comments to the agency on the plan within 60 calendar days; and

(3) Notify an agency when progress reports are no longer required.

[42 FR 56121, Oct. 21, 1977]

§ 101-11.104 Interagency program evaluations and studies.

Section 2904 of Title 44, United States Code (the Federal Records Management Amendments of 1976) authorizes the Administrator of General Services to conduct inspections or records management studies which involve a review of the programs and practices of more than one Federal agency and which examine interactions among and relationships between Federal agencies with respect to records and records management.

[42 FR 56121, Oct. 21, 1977]

Subpart 101-11.2—Creation of Records

§ 101-11.200 Scope of subpart.

(a) Sections 505 and 506 of the Federal Records Act of 1950 (44 U.S.C. 395, 396) place upon the Administrator of General Services and the heads of Federal agencies responsibility for the development and implementation of standards and programs for the economical and efficient management of Federal records. Specifically, the Act requires that each Federal agency provide for effective controls over the creation of records, including the making of records containing adequate and proper documentation of agency administration and operations.

(b) Effective controls over records creation must encompass all types of records at all levels of organization, central office and field. Specifically, there are four types of records which require continuing attention. These types—correspondence, reports, forms, and directives—are common to all agencies. Generally these records are created on sheets of paper, but they may also appear on punch cards, film, tape, and other media.

§ 101-11.201 General provisions.

§ 101-11.201-1 Agency action.

(a) The head of each Federal agency, in meeting the requirements of section 506 of the Federal Records Act of 1950 for controlling the creation of records, is expected to observe the program responsibilities and standards set forth in this Subpart 101-11.2. These responsibilities and standards are basic to the Government-wide control of records creation; however, the application of the program responsibilities by individual agencies may be influenced by factors such as agency size, organization, mission, and paperwork activity.

(b) Each Federal agency is expected to:

(1) Assign to an office(s) of the agency the responsibility for the development and implementation of agencywide management programs for correspondence, reports, forms, ADP records, and directives and for ade-

quate and proper documentation. When organization arrangement, size, or complexity requires, actual control may be established at bureau, service, or office level. Programs at these control points will operate within the framework of the overall agency plan.

(2) Issue a directive(s) establishing program objectives, responsibilities, and authorities. A copy of each directive issued (and subsequent amendments or supplements) should be readily available for inspection by the National Archives and Records Service, GSA.

[29 FR 16807, Dec. 8, 1964, as amended at 32 FR 3147, Feb. 22, 1967]

§ 101-11.202 Adequate and proper documentation.

§ 101-11.202-1 Statutory responsibilities.

(a) Section 505(a) of the Federal Records Act of 1950 (44 U.S.C. 395(a)) vests in the Administrator of General Services responsibility for developing and issuing standards to improve the management of records.

(b) Section 506(a) of the Federal Records Act of 1950 (44 U.S.C. 396(a)) requires that the head of each Federal agency "shall cause to be made and preserved records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency and designed to furnish the information necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency's activities."

§ 101-11.202-2 Documentation standards.

To insure that adequate and proper records are made and preserved in the Federal Government, the following documentation standards will apply in each Federal agency:

(a) The record of the transaction of public business by any Federal official or employee is to be complete to the extent required (1) to facilitate informal action by the incumbents and their successors in office; (2) to make possible a proper scrutiny by the Congress, other duly authorized agencies of the Government, and other persons properly and directly concerned, of the manner in which public business has been discharged; and (3) to protect the financial, legal, and other rights of the Government and of persons affected by the Government's actions.

(b) With particular regard to the formulation and execution of basic Government policy, Federal officials are responsible for incorporating in the records of their agencies all essential information on their major actions. Significant decisions and commitments reached orally (person to person, by telephone, or in conference) should be reduced to writing and included in the record. Minutes should be taken at important board, committee, and staff meetings, and these, together with a copy of the agenda and all documents considered at or resulting from such meetings, should be made a part of the record.

(c) The programs, policies, and procedures of Federal agencies are to be adequately documented in appropriate directives. A record copy of each such directive (including those superseded) will be maintained as a part of the official files.

(d) Papers of a private or nonofficial character which pertain only to an individual's personal affairs that are kept in the office of a Federal official will be clearly designated by him as nonofficial and will at all times be filed separately from the official records of his office. In cases where matters requiring the transaction of official business are received in private personal correspondence, the portion of such correspondence that pertains to official business will be extracted and made a part of the official files (see § 101-11.406-6).

§ 101-11.203 Creating records essential for current business.

§ 101-11.203-1 Statutory responsibilities.

(a) Section 505(a) of the Federal Records Act of 1950 (44 U.S.C. 395(a)), vests in the Administrator of General Services responsibility for developing and issuing standards to improve the management of records and for promoting the efficient utilization of space, equipment, and supplies needed for records.

(b) Section 506(b) of the Federal Records Act of 1950 (44 U.S.C. 396(b)) requires that the head of each Federal agency "shall establish and maintain an active, continuing program for the economical and efficient management of the records of the agency. Such program shall, among other things, provide for (1) effective controls over the creation * * * of records in the conduct of current business * * *." Correspondence, reports, forms, machine readable records together with supporting documentation, and directives are the principal types of records created on a current basis by Federal agencies.

[29 FR 16807, Dec. 8, 1964, as amended at 32 FR 3147, Feb. 22, 1967]

§ 101-11.203-2 General requirements.

Positive action is to be taken to prevent the making of unnecessary records. Existing and proposed office procedures are to be subject to continuing examination by agency management with a view to determining their effect on recordmaking. Where justified, such procedures will be revised, consolidated, or eliminated to keep recordmaking to a minimum. In addition, the detailed program requirements for correspondence, reports, forms, directives management, and ADP records management set forth in the following sections of this subpart are to be observed.

[32 FR 3147, Feb. 22, 1967]

§§ 101-11.204—101-11.205 [Reserved]

§ 101-11.206 Correspondence—agency program responsibilities.

§ 101-11.206-1 Correspondence management function.

The objectives of correspondence management are to limit correspondence to essential requirements, to improve the quality of necessary correspondence, and to provide for its creation in an economical and efficient manner.

§ 101-11.206-2 Correspondence defined.

Correspondence is a generic term including letters, form letters, telegrams, memorandums, endorsements, summary sheets, postal cards, memo routing slips, and other written communications.

§ 101-11.206-3 Program requirements.

(a) Each Federal agency, in providing for effective controls over the creation of records, is expected to establish an appropriate program for the management of agency correspondence (§ 101-11.201-1). The program will:

(1) Prescribe the types of correspondence to be used in official agency communications.

(2) Establish and implement agency standards concerning the number and kind of copies required, their distribution and purpose.

(3) Implement the correspondence standards set forth in the U.S. Government Correspondence Manual and in pertinent GSA Records Management Handbooks, with such modifications as may be necessary for specialized agency practices.

(4) Implement the Government-wide standards issued by GSA for the procurement and use of letterheads, manifold paper, memorandum forms, and envelopes.

(5) Review, on a continuing basis, agency correspondence practices and procedures to find opportunities for improvement and simplification.

(b) Standards, guides, and instructions developed for the agency correspondence management program are to be in published form, designed for easy reference and revision. They should be readily available to those who write, review, sign, type, and file correspondence.

§ 101-11.206-4 Program implementation.

The following actions are generally basic to a correspondence management program:

(a) Prepare only necessary correspondence and essential copies.

(b) Use form letters to the maximum extent possible following the standards, guides, and principles set forth in the GSA Records Management Handbook, Form Letters.

(c) Employ guide letters and paragraphs where practical, following the standards, guides, and principles set forth in the GSA Records Management Handbook, Guide Letters.

(d) Originate letters that are carefully planned, easily read and understood, and responsive to the needs of the recipient by applying the standards, guides, and principles set forth in the GSA Records Management Handbook, Plain Letters.

(e) Prepare correspondence that is consistent in style and format, neat and attractive in appearance, and editorially correct by applying the standards, guides, and principles set forth in the U.S. Government Correspondence Manual.

(f) Develop and implement procedures that expedite the clearance and handling of correspondence.

(g) Provide for periodic spotchecks of agency correspondence to determine compliance with standards.

§ 101-11.207 Reports—agency program responsibilities.

[41 FR 8772, Mar. 1, 1976]

§ 101-11.207-1 Reports management function.

The effective management of reports requires an organized and continuous effort to improve the quality and economy of reporting to ensure that agency management officials are provided with the exact information needed in the right place, at the right time, and in the format most useful to them for informed decisionmaking. The reports management function includes the output (report) of agency systems or procedures as well as the reporting systems themselves. The reports management function is also concerned with interagency reports management (Subpart 101-11.11) and with the clearance of public reporting and recordkeeping requirements under the Federal Reports Act (Office of Management and Budget Circular A-40, Revised, May 3, 1973, and General Accounting Office directives, 4 CFR Part 10).

[41 FR 8772, Mar. 1, 1976]

§ 101-11.207-2 Definitions.

(a) *Report.* Data or information which is transmitted for use in determining policy; planning, controlling, and evaluating operations and performance; making administrative determinations; or preparing other reports. The data or information may be in narrative, statistical, graphic, or other form and may be displayed on paper, magnetic tapes, or other media.

(b) *Reporting.* The process by which data or information for a report is collected, organized, transmitted, and retained.

(c) *Internal reporting requirement.* Any requirement that involves reports prepared and used solely within a department or agency covered by the Federal Records Act.

[41 FR 8772, Mar. 1, 1976]

§ 101-11.207-3 Program requirements.

(a) Each Federal agency, in providing for effective controls over the creation of records, is expected to establish an appropriate program for the management of its internal reporting requirements (§ 101-11.201-1). The program shall:

(1) Establish and implement standards and procedures for identifying management information needed for planning, controlling, and evaluating.

(2) Establish and implement standards and procedures for designing management information systems, including the design of reports used in those systems.

(3) Establish and implement standards and procedures for initiating, identifying, reviewing, approving, preparing, and distributing internal reporting requirements.

(4) Provide essential management information concerning the number and types of reports in use and, for reports which require a significant amount of manpower and other resources, the estimated costs of development, operation, and use (§ 101-11.207-3(c)).

(5) Provide for the periodic review of approved reports for need, adequacy, design, and economy of preparation and use.

(6) Ensure that all applicable laws and statutes (e.g., Freedom of Information Act (5 U.S.C. 552), the Privacy Act of 1974 (5 U.S.C. 552a), and Federal Information Processing Standards (FIPS) (40 U.S.C. 759(f); 15 CFR Part 6)) are considered in the development of internal reporting requirements.

(b) Standards, guides, and instructions developed for the reports management program are to be published and designed for easy reference and revision. They shall be readily available to reports originators and users and to NARS for periodic review as part of the NARS records management evaluation program as prescribed in § 101-11.103, Agency program evaluation.

(c) Approval, modification, or disapproval of internal agency reporting requirements (§ 101-11.207-3(a)(3)) shall be based on an objective cost effectiveness evaluation in accordance with costing guidelines issued by the Office of Records Management, NARS, unless reporting is exempted in accordance with § 101-11.207-3(d). Cost estimates of internal reporting requirements shall cover the same reporting costs defined for interagency reports (§ 101-11.1106-1) and be based on the same costing alternatives specified for interagency reports (§ 101-11.1106-2).

(d) The following external reporting requirements are exempted from the provisions of this subpart (however, internal agency reporting requirements that may be developed by an agency in order to respond to an exempted external reporting requirement are subject to the provisions of this subpart:

(1) Legislative branch requirements in statutes or congressional committee requests;

(2) Judicial branch requirements in court orders or other judicial determinations;

(3) Presidential requirements in Presidential directives; and

(4) OMB budgetary, program review and coordination, and legislative clearance requirements.

(e) If an agency determines that it cannot comply with all provisions of this subpart for a specific internal reporting requirement, selected program requirements may be waived by an appropriate agency program authority. As a minimum, all internal reporting requirements granted such waivers shall be assigned a summary cost estimate (§ 101-11.1106-2(d)) by the agency program authority.

[41 FR 8772, Mar. 1, 1976]

§ 101-11.207-4 Program implementation.

The following actions are generally basic to a reports management program:

(a) Establish and maintain an inventory of internal and external recurring reports.

(b) Develop the kinds of reporting systems that best serve management.

(c) Analyze all reports inventoried and all reports submitted for approval to determine that:

(1) The information is adequate, necessary, meaningful, and useful;

(2) The information is obtained from the best available source and in the simplest manner;

(3) The reporting frequency is consistent with the time the information is actually needed; and

(4) The estimated cost of gathering the information does not exceed its management value.

(d) Require that each request for a new or revised report explain how the report will be used.

(e) Require that each report be supported by a directive setting forth instructions for preparation and submission.

[41 FR 8772, Mar. 1, 1976]

§ 101-11.208 Forms—agency program responsibilities.

§ 101-11.208-1 The forms management function.

The objectives of forms management are to increase the usefulness of forms through proper design and accurate using procedures; to reduce costs incident to filling in, using, and filing forms; and to achieve savings in designing, printing, storing, and distributing forms.

§ 101-11.208-2 Forms defined.

A form is any document, including letters, post cards, and memorandums, printed or otherwise reproduced with space for filling in information, descriptive material, or addresses. Certain printed items without fill-in-space, such as contract provisions, instruction sheets, notices, tags, labels, and posters, may be considered as forms when it is advantageous to identify and control them as forms for purposes of reference, printing, stocking, distribution, and use with other forms.

§ 101-11.208-3 Program requirements.

(a) Each Federal agency, in providing for effective controls over the creation of records, is expected to establish an appropriate program for the management of agency forms (§ 101-11.201-1). The program will:

(1) Establish and implement standards and procedures for the submission, review, approval, and identification of agency forms.

(2) Implement the forms analysis and design standards set forth in pertinent GSA Records Management Handbooks.

(3) Establish and implement standards for the reproduction, stocking, and distribution of approved blank forms.

(4) Provide essential management information concerning the number, types, and the reproduction and stocking costs of forms in use.

(5) Provide for the periodic review of all approved forms for need and design, and for possible economies in reproduction, stocking, and distribution.

(b) Standards, guides, procedures, and instructions developed for the forms management program are to be in published form, designed for easy reference and review. They should be readily available to those who initiate, design, and approve forms.

§ 101-11.208-4 Program implementation.

The following actions are generally basic to a forms management program:

(a) Establish and maintain an inventory of all agency forms.

(b) Analyze all forms inventoried and all forms submitted for approval in the future in accordance with standards, guides, and principles set forth in the GSA Records Management Handbook, Forms Analysis.

(c) Review all forms inventoried and all forms prepared in the future for adequacy of design, maintaining the standards, guides, and principles set forth in the GSA Records Management Handbook, Forms Design.

(d) Assign a form number and edition date to each approved form.

(e) Review all requests for new forms and reprints of approved forms to determine that the forms are produced and made available quickly and cheaply. Specifically determine that:

(1) The most effective and economical methods of printing and distributing the form are employed, commensurate with required quality and intended use of the form.

(2) Proper and adequate inventory level standards have been established.

(3) The quantity of the form requested is compatible with procedural and inventory requirements.

(4) An acceptable distribution plan exists for making the form available when and where needed.

(f) Require that each form be supported by a directive setting forth instructions for preparing, submitting, and using. (Not applicable to self-explanatory forms used by a single organizational element such as an office, division, or region.)

(g) Require that each request for a new form justify the form's essentiality.

§ 101-11.209 Directives management.

[45 FR 74924, Nov. 13, 1980]

§ 101-11.209-1 Scope.

Sections 101-11.209-2 through 101-11.209-6 provide Federal agencies with standards and guidelines for establishing and managing effective directives systems. Small or temporary agencies may modify these regulations to meet their specific requirements.

[45 FR 74924, Nov. 13, 1980]

§ 101-11.209-2 Authority

As required by 44 U.S.C. chapter 29, the Administrator of General Services will provide guidance and assistance to Federal agencies on the creation, maintenance, use, and disposition of records.

[45 FR 74925, Nov. 13, 1980]

§ 101-11.209-3 Definitions.

For the purposes of this subpart, the following definitions apply:

(a) *Directive.* A "directive" means a written communication that initiates or governs action, conduct, or procedure. Directives are often issued as circulars, notices, regulations, orders, and handbooks, and include materials usually issued to multiple addressees in multiple copies for insertion in policy, administrative, and operations manuals.

(1) Both internal and external directives are included in a directives management program.

(i) An "internal directive" means an officially prescribed intraagency policy or procedure, delegation of authority, or assignment of responsibility.

(ii) An "external directive" means officially prescribed guidance issued to a primary audience outside the originating agency.

(2) These definitions do not include news releases, program announcements, catalogs, pricelists, training materials, or correspondence.

(b) *Directives management.* "Directives management" means the effective and efficient development of controlled directives and their distribution, use, maintenance, and disposition.

[45 FR 74925, Nov. 13, 1980]

§ 101-11.209-4 Objectives.[1]

Directives management objectives are to provide agency managers with the means to effectively and efficiently convey written instructions to users and to document agency policies and procedures.

[45 FR 74925, Nov. 13, 1980]

§ 101-11.209-5 Agencies' responsibilities.

Each Federal agency, to provide for effective, continuing directives management, shall:

(a) Assign to all agency managers the responsibility for preparing and maintaining directives needed to carry out their assigned responsibilities.

(b) Assign overall responsibility for planning, organizing, and controlling the directives management program to an office at the department or agency level, and delegate directives management functions, as needed, to lower organizational levels.

(c) Issue a directive(s) that states the purpose, responsibilities, authorities, policies, standards, and procedures of the agency's directives program.

(d) Organize agency directives systematically so that they are readily available to users by:

(1) Developing an integrated directives system that includes all agency policies and procedures;

(2) Classifying directives by subject so that all directives on any subject can be readily identified;

(3) Maintaining current indexes of existing directives and other finding aids, as necessary, so users may easily locate the directives they need;

(4) Establishing distinctive formats for directives so recipients can recognize them as authoritative agency instructions;

(5) Differentiating between permanent and temporary directives and ensuring that temporary directives carry expiration dates; and

(6) Maintaining directives in a form, such as looseleaf binders, where obsolete or revised materials may be easily removed or inserted.

(e) Ensure that directives are clearly written by:

(1) Establishing and implementing writing standards for directives; and

(2) Identifying the audience for each directive, and writing so that the intended readers can easily understand it.

(f) Ensure that directives are useful by:

(1) Providing users with only necessary information;

(2) Keeping directives current by issuing changes as needed; and

(3) Providing for the issuance of supplemental directives. This permits overall agency direction to be adapted to local conditions by field and other organizational components, provided that supplemental directives are consistent with the intent of the originals.

(g) Review each proposed directive to ensure that it is necessary, accurate, complete, and understandable.

(h) Coordinate and clear each proposed directive to avoid issuing conflicting policies or procedures.

(i) Establish and publish effective and efficient procedures for the timely reproduction and distribution of directives.

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[1] See Temporary Regulation B-5 in the appendix to Subchapter B for temporary changes to §101-11.209-4.

(j) Furnish copies of directives only to those who need them by:

(1) Requiring originators to identify those with a "need to know" or a "need to act" for each new directive for the purpose of developing accurate distribution lists;

(2) Annually reviewing and updating distribution lists for directives; and

(3) Periodically distributing checklists of current directives so users can determine whether they have received relevant directives.

(k) Require originators to biennially review each directive for need and currentness, and require originators to certify whether to continue, revise, or cancel each directive.

(l) Conduct training, or provide written guidance, as follows:

(1) For managers, on the importance of using the directives system to provide written instructions for accomplishing the agency's objectives;

(2) For directives originators, on the writing style and proper format for directives; and

(3) For users, on how to use the directives system.

(m) Evaluate the effectiveness and cost of the directives system, as follows:

(1) Maintain essential management information on the operation of directives systems. Examples of this information are data on the cost and time required to prepare, clear, and distribute directives; and annual workload data on the number of pages of directives issued, revised, and canceled. This information may be collected on a sampling basis;

(2) Annually review high-cost or high-volume directives activities to find opportunities for improvement;

(3) Evaluate annually the operating performance of the directives system. For example, select a sample of agency directives to find out if the intended recipients (i) received the directive, (ii) received it before its effective date, (iii) needed it, and (iv) understood it and acted correctly; and

(4) Evaluate the application of technologies, such as word processing, automatic data processing, micrographics, photocomposition, and facsimile transmission, as means of improving the efficiency and effectiveness of the directives system.

(n) Maintain an archival collection of directives that documents agency organization, functions, programs, policies, decisions, and procedures. (See §§ 101-11.202-2(c) and 101-11.403.)

[45 FR 74925, Nov. 13, 1980]

§ 101-11.209-6 Additional information.

For more details on managing a directives system, refer to the "Communicating Policy and Procedures Records Management Handbook" (available through the GSA supply system using the FEDSTRIP/MILSTRIP requisitioning process, National Stock Number 7610-00-935-4176). For instructions on preparing external issuances for publication in the FEDERAL REGISTER, consult the "Document Drafting Handbook," 1980 edition, available from the U.S. Government Printing Office.

[45 FR 74925, Nov. 13, 1980]

§ 101-11.210 Automatic data processing records; agency program responsibilities.

[32 FR 3147, Feb. 22, 1967]

§ 101-11.210-1 ADP records management function.

The objectives of ADP records management are to ensure efficient and economic automatic data processing by: Using proper recording and preservation techniques of machine instructions and operating procedures; establishing standards for proper maintenance, storage, and disposition of machine-readable records; developing optimum procedures for computer rooms and related support areas; and reviewing these recordkeeping practices on a continuing basis to find opportunities for improvement.

[41 FR 13353, Mar. 30, 1976]

§ 101-11.210-2 ADP records management defined.

ADP records management includes maintaining a current file-by-file inventory of machine-readable records and the accompanying documentation for each file and maintaining these files in a facility in conformance with § 101-32.1205 while carrying out periodic checks to verify readability. Documentation of ADP records consists of functional and operational flow charts, physical file characteristics, recording mode information including basic coding structure (code books), recording system information, record layouts, printout plans (formats), and basic run instructions (run books).

[41 FR 13353, Mar. 30, 1976]

§ 101-11.210-3 Program requirements.

(a) Each Federal agency, in providing for effective controls over the creation of records, is expected to establish an appropriate program for the management of ADP records (§ 101-11.201-1). The program will:

(1) Prescribe the types of records to be used and maintained for the proper documentation and preservation for ADP operation;

(2) Prescribe the types of machine readable records, together with the necessary classification, labeling, recording, and filing standards;

(3) Issue retention and disposal standards for the records used in ADP records management; and

(4) Review, on a continuing basis, agency ADP recordkeeping practices and procedures to find opportunities for improvement and simplification.

(b) Standards, guides, and instructions developed for the agency ADP records management program are to be in published form, designed for easy reference and revision

[32 FR 3147, Feb. 22, 1967]

§ 101-11.210-4 Program implementation.

Each agency shall establish standards for ADP records management and issue instructions and guidelines in the form of handbooks or manuals in accordance with appropriate standards. Specifically, these standards shall include:

(a) Identifying ADP records through classification and labeling;

(b) Filing and controlling methods for finding machine-readable records;

(c) Preserving machine-readable records through the use of disposition schedules, proper media storage facilities, and maintenance techniques;

(d) Scheduling the disposition of the records used in ADP records management;

(e) Issuing forms and formats for recording machine programs (instructions), functional and operational flow charts, record layouts, record coding structure (code books), printout plans, and basic machine run instructions (run books).

[41 FR 13353, Mar. 30, 1976]

Subpart 101-11.3—Organization, Maintenance, and Use of Current Records

§ 101-11.301 General provisions.

§ 101-11.301-1 Authority.

Section 506(b) of the Federal Records Act of 1950 (44 U.S.C. 396(b)) requires that the head of each Federal agency "shall establish and maintain an active continuing program for the economical and efficient management of the records of the agency. Such program shall, among other things, provide for (1) effective controls over the * * * maintenance and use of records in the conduct of current business; * * *".

§ 101-11.301-2 Agency action.

Each Federal agency is expected to:

(a) Assign to an office(s) of the agency the responsibility for the development and implementation of agencywide management programs for mail, files, and records equipment and supplies. When organization arrangement, size, or complexity requires, actual control may be established at bureau, service, or office level. Programs at these control points will operate within the framework of the overall agency plan.

(b) Issue a directive(s) establishing program objectives, responsibilities, and authorities. A copy of each directive (and subsequent amendments or supplements) should be readily available for inspection by the National Archives and Records Service, GSA.

§§ 101-11.302—101-11.303 [Reserved]

§ 101-11.304 Mail—agency program responsibilities.

§ 101-11.304-1 The mail management function.

The objective of mail management is to provide rapid handling and accurate delivery of mail throughout the agency at minimum cost. To do this processing steps are kept to a necessary minimum; sound principles of work flow are applied; modern equipment, supplies, and devices are used; and, in general, operations are kept as simple as possible, so as to increase efficiency.

§ 101-11.304-2 Mail defined.

Mail consists of letters, telecommunications, memorandums, post cards, documents, packages, publications, and other communications received for distribution or dispatch.

§ 101-11.304-3 Program requirements.

(a) Each Federal agency, in providing for effective controls over the creation of records, is expected to establish an appropriate program for the management of agency mail (§ 101-11.301-2) The program will:

(1) Establish and implement standards and procedures for the receipt, delivery, collection, and dispatch of mail.

(2) Implement the mail management standards set forth in the GSA Records Management Handbook, Agency Mail Operations.

(3) Provide essential management information concerning the volume and types of mail processed and time requirements for internal delivery and mailing.

(4) Review, on a continuing basis, agency mail practices and procedures to find opportunities for improvement and simplification.

(b) Standards, guides, and instructions developed for the agency mail management program are to be in published form, designed for easy reference and revision. They should be readily available to those concerned with mail and messenger operations. In addition, pertinent information for users of mail and messenger services should be given the widest possible dissemination.

§ 101-11.304-4 Program implementation.

The following actions are generally basic to a mail management program:

(a) Deliver mail to the action office within shortest possible time after receipt. (Objective should be 4- to 6-hour delivery.)

(b) Establish realistic time limits for replying to White House and Congressional mail, and to public correspondence. Limit preparing letters of a purely acknowledgment nature to cases in which a considerable time may be needed for a substantive reply.

(c) Limit mail followup control to security mail or mail important because of its source or content.

(d) Make maximum and proper use of Post Office Department services and facilities.

(e) Develop and install procedures that expedite and limit mail clearance, reviews, and signing.

(f) Provide central control with established schedules for messenger services.

§ 101-11.305 Files—agency program responsibilities.

§ 101-11.305-1 The files management function.

The objectives of files management are to organize agency files so that needed records can be found rapidly, complete records are ensured, the selection and retention of records of archival value are facilitated, and the disposition of noncurrent records is accomplished promptly. All services are to be performed with maximum economy in personnel, equipment, and supplies.

§ 101-11.305-2 Files defined.

A file is basically a paper or folder of papers, but the term is used to denote papers, photographs, photographic copies, maps, machine-readable information, or other recorded information regardless of physical form or characteristics, accumulated or maintained in filing equipment, boxes, or machine-readable media, or on shelves, and occupying office or storage space. Stocks of publications and blank forms are excluded.

[41 FR 13353, Mar. 30, 1976]

§ 101-11.305-3 Program requirements.

(a) Each Federal agency, in providing for effective controls over the creation of records, is expected to establish an appropriate program for the management of agency files (§ 101-11.301-2). The program will:

(1) Establish and implement standards and procedures for:

(i) Classifying, indexing, and filing records.

(ii) Providing reference services to filed records.

(iii) Locating active files to facilitate agency use of records.

(2) Implement the files classification, operations, and placement standards set forth in pertinent GSA Records Management Handbooks.

(3) Review the program periodically to determine the adequacy of the system and its effectiveness in meeting requests.

(b) Standards, guides, and instructions developed for the files management program are to be in published form, designed for easy reference and revision. They should be readily available to all employees concerned with files operations. In addition, pertinent information for users of files and reference services should be given the widest possible dissemination.

§ 101-11.305-4 Program implementation.

The following actions are generally basic to a files management program:

(a) Standardize classification and filing schemes to:

(1) Achieve maximum uniformity and ease in maintaining and using agency records.

(2) Facilitate disposal of records in accordance with applicable records disposal schedules.

(3) Facilitate possible later consolidation of identical type files presently maintained at different locations.

(b) Formally authorized official file locations. Prohibit the maintenance of files at other than authorized locations.

(c) Standardize reference service procedures to facilitate the finding, chargeout, and refiling of agency records.

(d) File accumulations of papers received at file locations on a daily basis.

(e) Standardize, to the maximum extent possible, the equipment and supplies used in filing and reference service operations. Use standard items stocked by the Federal Supply Service.

(f) Audit periodically a representative sample of the files for duplication, misclassification, or misfiles.

§ 101-11.306 Records equipment and supplies—agency program responsibilities.

§ 101-11.306-1 Managing records equipment and supplies.

The objectives of a records equipment and supplies management program are to ensure that equipment and supplies necessary and suitable to agency records operations, procedurally and economically, are available and are put to proper use. Modern equipment and supplies are now manufactured in a wide variety of types which, in most instances, are designed for special uses. Competent advice should be continuously available to assure that the correct item is obtained for a given purpose.

§ 101-11.306-2 Records equipment and supplies defined.

Equipment and supplies include file cabinets, shelf files, visible files, mechanized files, file guides, folders, jackets, wallets, and similar items used in the creation and maintenance of records and in mail handling. A program for managing equipment and supplies may also cover desk-top office machines, dictating and recording equipment, and data recording equipment.

§ 101-11.306-3 Program requirements.

(a) Each Federal agency, in providing for effective controls over the creation of records, is expected to establish an appropriate program for the management of agency records equipment and supplies (§ 101-11.301-2). The program will:

(1) Establish and implement standards and procedures for:

(i) Standardization of records equipment and supplies used by the agency.

(ii) Submission, review, and approval of requests for the purchase of records equipment and supplies.

(iii) Proper utilization of presently owned records equipment.

(2) Review, on a continuing basis, the utilization of records equipment to ensure adequate and proper application.

(3) Provide for a continuing review of new developments in the field of records equipment and supplies and their possible application to agency records systems.

(b) Standards, guides, and instructions for managing records equipment and supplies are to be in published form, designed for easy reference and revision. They should be readily available to program officials responsible for operations using records equipment and supplies.

§ 101-11.306-4 Program implementation.

The following actions are generally basic to a records equipment and supplies management program:

(a) Minimize equipment and supplies needs by providing for prompt disposition of records. Reduce or eliminate the need for additional equipment by freeing equipment on hand for reuse.

(b) Use, to the maximum extent possible, standard items listed in GSA Stores Stock Catalog and Federal Supply Schedules. Prohibit the purchase of nonstandard items unless justification for exception is submitted and approved.

(c) Review requests for purchase of equipment and supplies to determine essentiality and usability.

(d) Review use of currently owned and rented equipment to determine that it is essential, suitable, properly utilized and maintained, and updated as required.

(e) Analyze record keeping procedures and techniques to determine if requirements for equipment and supplies are realistic and if requirements can be reduced or eliminated through improved or changed procedures or techniques.

Subpart 101-11.3a—Declassification of and Public Access to National Security Information

AUTHORITY: 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

SOURCE: 37 FR 15687, Aug. 3, 1972, unless otherwise noted.

§ 101-11.320 General provisions.

Declassification of and public access to national security information and materials is governed by Executive Order 11652 of March 8, 1972 (37 FR 5209, March 10, 1972), and by the National Security Council Directive of May 17, 1972 (37 FR 10053, May 19, 1972).

§ 101-11.321 Public requests for review of classified material.

Members of the public wishing to request review of classified material more than 10 years old in the custody of NARS under the mandatory review procedures of section 5 of Executive Order 11652 should identify the record or information desired and apply in writing to the appropriate NARS depository listed in 41 CFR 105-61.4801.

§ 101-11.322 Mandatory review procedures.

§ 101-11.322-1 Records 10 through 30 years old.

(a) *NARS action.* Within 3 workdays, NARS will forward each request for review of classified material to the originating Federal agency and will inform the requester to which office the request was forwarded.

(b) *Federal agency action.* Upon receipt of a request forwarded by NARS, the originating agency shall:

(1) Acknowledge receipt of the request in writing;

(2) Review the request and determine within 30 calendar days whether the material may be declassified; and

(3) Notify the requester and NARS of the determination made or of the reason why further time is necessary to make the determination. If the request is denied, the agency must also furnish the requester and NARS with a brief statement of the reasons the

requested material cannot be declassified.

(c) *Action by requester.* (1) After the request is approved and the material is declassified, members of the public may use or order reproductions of the materials in accordance with 41 CFR 105-61, Records, Donated Historical Materials, and Facilities in the National Archives and Records Service.

(2) If the request is denied or no answer is received after 60 calendar days, the requester may appeal to the Departmental Committee of the originating agency as provided in section 7(B) of Executive Order 11652 and Part III of the National Security Council Directive. The Departmental Committee shall act on the appeal and reply to the requester and to NARS within 30 calendar days. The requester may further appeal a denial to the Interagency Classification Review Committee.

§ 101-11.322-2 Records more than 30 years old.

If the material requested has not been automatically declassified under section 5(E) of Executive Order 11652, NARS will review the material and either declassify it or request a determination by the head of the originating agency as to whether the material requires continued protection. In either case, NARS will reply to the requester within 30 calendar days. If the material is declassified, it will become available subject to the provisions of 41 CFR 105-61 or the regulations of the agency having custody. If declassification is denied, NARS will so notify the requester and inform him of his right to appeal to the Interagency Classification Review Committee.

§ 101-11.322-3 White House classified material.

Except when donor restrictions preclude granting access, NARS will review the material requested, consult with the agencies having primary subject-matter interest, determine whether the material may be declassified, and notify the requester within 30 calendar days. If the request is approved, the material will become available subject to the provisions of 41 CFR 105-61. If the request is denied, NARS will inform the requester of his right to appeal to the Interagency Classification Review Committee.

§ 101-11.323 Access to materials that remain classified.

(a) Any person desiring permission to examine such materials shall, sufficiently in advance, submit to the Archivist of the United States a completed application, a set of his fingerprints, and personal history data on forms that will be furnished. Applications will be referred by the Archivist to agencies having responsibility for the related programs. Records can be made available for examination only after each appropriate agency has authorized the Archivist of the United States to make them available.

(b) The requirement for submission of a fingerprint set or of personal history data may be waived for an applicant who has previously furnished those items.

(c) To guard against the possibility of unauthorized access to restricted records, a director may issue instructions supplementing the research room rules provided for in 41 CFR 105-61.103.

§ 101-11.324 Liaison.

To insure that NARS will be able to respond promptly to requests from the public, each Federal agency originating classified materials in the custody of NARS shall forward to the Deputy Archivist of the United States (Mailing address: General Services Administration (ND), Washington, D.C. 20408) the name, mailing address, and telephone number of the office responsible for handling mandatory review requests under Part III of the National Security Council Directive; the name, title, mailing address, and telephone number of the senior staff member who serves as chairman of the Departmental Committee under section 7(B)(2) of Executive Order 11652; and 18 copies of any regulations or other instructions implementing Executive Order 11652.

Subpart 101-11.4—Disposition of Federal Records

SOURCE: 45 FR 5705, Jan. 24, 1980, unless otherwise noted.

§ 101-11.401 Scope of subpart.

This subpart prescribes policies and promulgates standards, procedures, and techniques for the disposition of all Federal records in accordance with 44 U.S.C. chapters 21, 29, 31, and 33.

§ 101-11.402 Definition.

Disposition refers to the actions taken with regard to records following their appraisal by the National Archives and Records Service. No disposition of any series of records is authorized before its appraisal. 44 U.S.C. 2901 defines "records disposition" as "any activity with respect to:

(a) Disposal of temporary records no longer necessary for the conduct of business by destruction or donation;

(b) Transfer of records to Federal agency storage facilities or records centers;

(c) Transfer to the National Archives of the United States of records determined to have sufficient historical or other value to warrant continued preservation; or

(d) Transfer of records from one Federal agency to any other Federal agency."

§ 101-11.403 Records disposition programs.

§ 101-11.403-1 Authority.

The head of each agency (in accordance with 44 U.S.C. 2904, 3102, and 3301) is required to establish and maintain a records disposition program to ensure efficient, prompt, and orderly reduction in the quantity of records and to provide for the proper maintenance of records deemed appropriate for permanent preservation.

§ 101-11.403-2 Basic elements of disposition programs.

The primary steps in the development of a records disposition program are given below. Details of each element are contained in the GSA Records Management Handbook, Disposition of Federal Records (NSN 7610-01-055-8704).

(a) Inventory of all records in the custody of the agency.

(b) Develop disposition standards for each type or series of records which specify whether the records are of permanent or temporary value.

(c) Formulate specific disposition instructions for each series of records based on the disposition of standards, including instructions for the retirement of records to Federal records centers and/or transfer to the National Archives when applicable.

(d) Assemble the disposition standards and instructions for each series of records into a comprehensive agency records disposition schedule.

(e) Obtain approval of the records disposition schedule from the Archivist of the United States.

(f) Apply the approved records disposition schedule to all records of the agency.

§ 101-11.404 Records disposition schedules and disposal lists.

§ 101-11.404-1 Comprehensive agency records disposition schedules.

Agency records schedules approved by the Archivist of the United States specify the proper disposition for all agency records. Recurring series of records of continuing value will be scheduled for permanent retention and eventual transfer to the custody of the National Archives, and recurring series of all other records will be scheduled for destruction after a specific period of time based on administrative, fiscal, and legal values. Formulation and application of these schedules is mandatory (44 U.S.C. 3303 and 3303a). Agencies shall forward 20 copies of all formally published schedules to the General Services Administration (NCD), Washington, DC 20408 (Stop 220).

(a) *Formulation of comprehensive schedules.* Each Federal agency shall prepare a comprehensive records schedule for all records in its custody. New Federal agencies shall complete comprehensive schedules within 1 year of their establishment. All schedules must follow the guidelines provided below:

(1) Schedules shall identify and describe clearly each series of records and shall contain disposition instructions that can be readily applied. Schedules must be prepared so that each office will have standing instructions detailing the destruction, transfer, or retention of records in its custody. Upon request by NARS, records recommended for retention longer than 10 years solely for administrative purposes must be justified in accordance with the procedures in § 101-11.406-8.

(2) Each item describing a permanent series of records shall include an arrangement statement, an estimate of the volume of records accumulated annually, as well as the total volume to date.

(3) All schedules shall take into account the existing filing system so that destruction or transfer can be handled in blocks.

(4) The disposition of nonrecord materials should be controlled by instructions in the comprehensive schedule. Nonrecord materials, such as extra copies of documents preserved solely for reference, stocks of processed documents, preliminary worksheets, and similar papers, shall be maintained separately from official agency files to facilitate records disposition.

(5) Schedules shall be reviewed and, if necessary, updated annually. Agencies shall schedule the records of new programs within 1 year of their implementation. Certification of this review shall be included on Standard Form 136, Annual Summary of Records Holdings, in accordance with § 101-11.102-7.

(b) *Provisions of comprehensive schedules.* Records schedules shall provide for:

(1) The destruction of records that have served their statutory, fiscal, or administrative uses and no longer have sufficient value to justify further retention. Procedures for obtaining disposal authorizations are prescribed in § 101-11.406-3;

(2) The removal to a Federal records center (or to an agency records center approved under § 101-11.412) of records not eligible for immediate destruction or other disposition which are no longer needed in office space and equipment. These records are maintained by the records center until they are eligible for further disposition action;

(3) The retention of the minimum volume of current records in office space and equipment consistent with efficient operations; and

(4) The identification of permanent records, in accordance with § 101-11.405, and the establishment of cutoff periods after which permanent records are offered to the National Archives and Records Service.

(c) *Certification.* The signature of the authorized agency representative on the Standard Form 115, Request for Records Disposition Authority, shall constitute certification that the records recommended for disposal do not or will not have sufficient administrative, legal, or fiscal value to the agency to warrant retention beyond the expiration of the specified period and that records described as permanent will be offered to the National Archives of the United States upon expiration of the stated period.

(d) *Disapproval of requests for disposition authority.* Requests for records disposition authority may be returned to the agency if the Standard Form 115 is improperly prepared. The agency shall make the necessary corrections and resubmit the form to the General Services Administration (NCD). The disposition request for any item may be disapproved and the agency notified in writing if after appraisal of the records the National Archives determines that the proposed disposition is not consistent with the value of the records.

(e) *Application of comprehensive schedules.* The head of each Federal agency shall direct the application of records schedules in order to ensure maximum economy of space, equipment, and personnel. Three copies of each directive or other issuance affecting an agency's records disposition program at the bureau of higher organizational level shall be sent to the General Services Administration (NCD).

[45 FR 5705, Jan. 24, 1980; 45 FR 37433, June 3, 1980]

§ 101-11.404-2 General Records Schedules.

General Records Schedules, issued by the General Services Administration (NARS), govern the disposition of certain types of records common to many or all agencies. Application of the disposition instructions in these schedules is mandatory.

(a) *Authority.* (1) The Administrator of General Services shall issue schedules authorizing the disposal, after specified periods of time, of records of a prescribed form or character common to several or all agencies if these records do not have sufficient legal, fiscal, administrative, or other value to warrant their further preservation by the U.S. Government (44 U.S.C. 3303a).

(2) General Records Schedules constitute authority to dispose of certain records described therein. Guidelines are also provided for identifying certain permanent records which should be offered to the National Archives.

(3) When records covered by the General Records Schedules are incorporated into an agency's comprehensive schedule, the General Records Schedule and item number shall be cited in column 9 of Standard Form 115, Requests for Records Disposition Authority.

(4) Provisions of the General Records Schedules may be applied to records in the custody of the Archivist of the United States at his or her discretion.

(5) Agencies desiring authority to deviate from the disposition instructions prescribed in the General Records Schedules shall request this authority in accordance with § 101-11.406-3 and justify the request in accordance with § 101-11.406-8.

(b) *Current schedules.* The following General Records Schedules governing the disposition of records common to several or all agencies were developed by the National Archives and Records Service following consultation with the Office of Personnel Management, the U.S. General Accounting Office, and other appropriate agencies. They have been approved by the Archivist of the United States.

Schedule Number and Type of Records Governed

1—Civilian Personnel Records
2—Payrolling and Pay Administration Records
3—Procurement, Supply, and Grant Records
4—Property Disposal Records
5—Budget Preparation, Presentation, and Apportionment Records
6—Accountable Officers' Accounts Records
7—Expenditure Accounting Records
8—Stores, Plant, and Cost Accounting Records
9—Travel and Transportation Records
10—Motor Vehicle Maintenance and Operation Records
11—Space and Maintenance Records
12—Communication Records
13—Printing, Binding, Duplication, and Distribution Records
14—Informational Services Records
15—Housing Records
16—Administrative Management Records
17—Cartographic, Remote Sensing Imagery, and Related Records
18—Security and Protective Service Records
19—Research and Development Records
20—Machine-Readable Records
21—Audiovisual Records
22—Design and Construction Drawings and Related Records

(c) *Availability.* General Records Schedules and instructions for their use are available from the General Services Administration (NCD). The Archivist of the United States announces all new schedules and schedule revisions in GSA bulletins.

§ 101-11.404-3 Records disposal lists.

By submitting a Standard Form 115, Request for Records Disposition Authority, agencies may request from NARS a one-time approval to dispose of records which no longer accumulate and have no further operational or other value. This type of request is known as a disposal list and must be applied to the records listed when approved (44 U.S.C. 3303 and 3303a).

§ 101-11.405 Disposition of permanent records.

§ 101-11.405-1 Authority.

The head of each agency shall direct the creation and preservation of records containing adequate and accurate documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency (44 U.S.C. 3101). The National Archives and Records Service shall establish standards for the retention of those records having continuing value, and assist Federal agencies in applying the standards to records in their custody (44 U.S.C. 2905).

§ 101-11.405-2 Definition of permanent records.

A permanent record is any record that has been determined by NARS to have sufficient value to warrant its preservation by the National Archives and Records Service. Such a determination may take the form of:

(a) An approved offer to transfer records to the National Archives and Records Service (§ 101-11.405-4);

(b) A series of records designated "permanent" in an agency records schedule approved by NARS after May 14, 1973 (§ 101-11.404-1(b)). Records so designated need not be appraised for accessioning at the time the records are offered to the National Archives and Records Service.

§ 101-11.405-3 Submission of recommendations for the permanent retention of records.

Federal agencies may recommend the permanent retention of records by a formal offer of records to the National Archives following procedures described under § 101-11.411 or by submitting Standard Form 115, Request for Records Disposition Authority, and Standard Form 115-A, Request for Records Disposition Authority—Continuation, to the General Services Administration. (NCD).

§ 101-11.405-4 Approval of the permanent retention of records.

The National Archives and Records Service will determine whether or not records are of permanent value. If the recommendation is submitted on a Standard Form 115, NARS will notify the agency that the records may be offered after a stated period to the National Archives and Records Service by returning one copy of the approved Standard Form 115. If the recommendation is made on a Standard Form 258, Request to Transfer, Approval, and Receipt of Records to National Archives of the United States, offering the records to the National Archives and Records Service, the agency will be given written notice of the final decision.

§ 101-11.405-5 Disapproval of the permanent retention of records.

If the National Archives and Records Service determines that records are not of permanent value, the agency will be given written notice of this decision. Within 6 months of the decision, the agency must submit a Standard Form 115 in accordance with § 101-11.406-3 requesting authorization to dispose of the records.

§ 101-11.406 Disposition of temporary records.

§ 101-11.406-1 Authority.

No records of the Government shall be destroyed or otherwise alienated from the Government except in accordance with 44 U.S.C. 3314. The Administrator of General Services will establish procedures to be followed by Federal agencies in compiling and submitting lists or schedules of records for disposal (44 U.S.C. 3302).

§ 101-11.406-2 Definition of temporary records.

A temporary (nonarchival) record is any record which has been determined by the Archivist of the United States to have insufficient value (on the basis of current archival standards) to warrant its preservation by the National Archives and Records Service. This determination may take the form of:

(a) A series of recurring records designated as disposable in an agency records disposition schedule approved by NARS (§ 101-11.404-1);

(b) A series of records designated as disposable in a General Records Schedule (§ 101-11.404-02); and

(c) An approved one-time authorization to dispose of records identified on a disposal list (§ 101-11.404-3).

§ 101-11.406-3 Request for authorization to dispose of temporary records.

Requests for authorization to dispose of records shall be initiated by Federal agencies by submitting records disposal lists or schedules to the National Archives and Records Service on Standard Form 115, Request for Records Disposition Authority. A Standard Form 115 is used for submitting a schedule (§ 101-11.404-1) or a list (§ 101-11.404-3). Item 6A of the Standard Form 115 should be checked if a list is being submitted or item 6B if a schedule is being submitted. Authority contained in an approved disposal list is limited to records already in existence. A schedule is a continuing authorization and should be used in all instances where the types of records described in the request continue to accumulate.

§ 101-11.406-4 General Accounting Office clearance.

Each Federal agency shall obtain the approval of the Comptroller General for the disposal of program records less than 3 years old and for certain classes of records relating to claims and demands by or against the Government, or to accounts in which the Government is concerned in accordance with the GAO Manual for Guidance of Federal Agencies, Title 8—Records Management (44 U.S.C. 3309). This approval must be obtained before the approval of the disposal request by the National Archives and Records Service.

§ 101-11.406-5 Approval of requests for disposal authority.

The Archivist of the United States will determine whether or not records may be destroyed. If the Archivist approves the request for authority to dispose of records, the National Archives and Records Service will notify the agency by returning one copy of the completed Standard Form 115. This shall constitute mandatory authority to dispose of the records (for withdrawal of disposal authority or the extension of retention periods, see §§ 101-11.406-6 and 101-11.406-8). This authorized disposal shall be accomplished as prescribed in § 101-11.406-9. Agencies shall forward 20 copies of all formally published records schedules containing disposition instructions which have been approved on a Standard Form 115 to the General Services Administration (NCD).

§ 101-11.406-6 Withdrawal of disposal authority.

In an emergency or in the interest of efficiency of Government operations, GSA will withdraw disposal authorizations in approved disposal schedules (44 U.S.C. 2909). This withdrawal may apply to particular items on schedules submitted by agencies or may apply to all existing authorizations for the disposal of a specified type of record obtained by any or all agencies of the Government. If the withdrawal is applicable to only one agency, that agency will be notified of this action by letter signed by the Archivist; if applicable to more than one agency, notification may be by GSA bulletin issued and signed by the Archivist.

§ 101-11.406-7 Request to change disposal authority.

Agencies desiring to change the approved disposition of a series of records should submit a Standard Form 115. Disposal authorizations contained in approved disposal schedules automatically are superseded by approval of a later schedule applicable to the same records unless the later schedule specifically provides that both the earlier and later schedules shall be applicable at the agency's discretion. Agencies submitting records schedules must indicate in entry 9 of the Standard Form 115 the relevant schedule and item which is being superseded, and/or the General Records Schedule item which covers the records.

§ 101-11.406-8 Temporary extension of retention periods.

(a) Approved agency records schedules and General Records Schedules are mandatory (44 U.S.C. 3303a). Records approved for disposal shall not be maintained longer without the prior written approval of the National Archive and Records Service (NC).

(b) Upon submission of adequate justification, NARS may authorize a Federal agency to extend the retention period of a series of records (44 U.S.C. 2909). These extensions of retention periods will be granted for records which are required to conduct Government operations because of special circumstances which affect the normal administrative, legal, or fiscal value of the records.

(c) The head of a Federal agency may request approval of a temporary extension of a retention period by addressing a letter to the General Services Administration (NC), Washington, D.C. 20408. The request shall include:

(1) A concise description of the records for which the extension is requested;

(2) A complete citation of the specific provisions of the agency records schedule or the General Records Schedule currently governing disposition of the records;

(3) A statement of the estimated period of time that the records will be required; and

(4) A statement of the current and proposed physical location of the records, including information on whether the records have been or will be transferred to one or more Federal records centers.

(d) Approval of a request for extension of retention periods may apply to records in the custody of one Federal agency or records common to several or all Federal agencies. If approval of a request is applicable to records in the custody of one agency, that agency will be notified by letter. If approval is applicable to records common to several agencies, notification may be made by GSA FPMR bulletin.

(e) Upon approval of a request for a change in retention periods applicable to records that have been or will be transferred to one or more Federal records centers, centers will be notified of the change and agencies will be furnished a copy of the notification. Agencies shall forward to GSA (NC) 20 copies of all formally issued instructions which extend retention periods.

(f) Upon expiration of an approved extension of retention periods, NARS will notify all affected agencies to apply normal retention requirements.

§ 101-11.406-9 Methods of disposal.

(a) *Authority.* Federal agencies are required to follow regulations issued by the Administrator of General Services governing the methods of disposing of records (44 U.S.C. 3314). Only the methods described in § 101-11.406-9 shall be used.

(b) *Sale or salvage.* Paper records to be disposed of normally shall be sold as wastepaper. If the records are defense classified, their disposal is governed by Executive Order 12065. If the records are restricted; that is, if laws or regulations forbid their use by the public, the wastepaper contractor shall be required to pulp, macerate, or shred the records and a Federal employee must witness the disposal. The contract for sale shall prohibit the resale of all other records for use as records or documents. Records other than paper records (film and plastic recording, etc.) may be salvaged or sold in the same manner and under the same conditions as paper records. All sales shall be in accordance with the established procedures for the sale of surplus personal property. (See Part 101-45, Sale, Abandonment, or Destruction of Personal Property.)

(c) *Donation for preservation and use.* (1) When the public interest will be served, a Federal agency may propose the transfer of records authorized for disposal to an eligible person, organization, institution, corporation, or government (including a foreign government) that has made application for them. Records will not be transferred without prior written approval of the National Archives and Records Service.

(2) The head of a Federal agency shall request the approval of such a transfer by addressing a letter to the General Services Administration (NC), Washington, DC 20408. The request shall include:

(i) The name of the department or agency, and subdivisions thereof, having custody of the records;

(ii) The name and address of the proposed recipient of the records;

(iii) A list containing: (A) An identification by series of the records to be transferred, (B) the inclusive dates of each series, (C) the NARS disposition job and item numbers that authorize disposal of the records as indicated on the approved Standard Form 115, the agency records schedule citation, or other disposal authority;

(iv) A statement providing evidence: (A) That the proposed transfer is in the best interests of the Government, (B) that the proposed recipient agrees not to sell the records as records or documents, and (C) that the transfer will be made without cost to the U.S. Government;

(v) A certification that: (A) The records contain no information the disclosure of which is prohibited by law or contrary to the public interest, and/or (B) that records proposed for transfer to a person or commercial business are directly pertinent to the custody or operations of properties acquired from the Government, and/or (C) that a foreign government desiring the records has an official interest in them.

(3) NARS will consider each request and determine whether these donations are in the public interest and upon approval will notify the requesting agency in writing. If NARS determines such a proposed donation is contrary to the public interest, the request will be denied and the agency will be notified that the records must be destroyed in accordance with the appropriate disposal authority.

(d) *Destruction.* If the records cannot be sold advantageously or otherwise salvaged, the records may be destroyed by burning or pulping.

§ 101-11.407 Emergency authorization to destroy records.

§ 101-11.407-1 General provisions.

Under certain conditions, records may be destroyed without regard to the provisions of § 101-11.406.

§ 101-11.407-2 Menaces to human life or health or to property.

(a) Disposal is authorized whenever it is determined that records constitute a continuing menace to human health or life or to property (44 U.S.C. 3310). Whenever the head of an agency has determined that records constitute such a menace, he or she shall notify the National Archives and Records Service, specifying the nature of the records, their location and quantity, and the nature of the menace. If the National Archives and Records Service concurs in the determination, the immediate removal of the menace by the destruction of the records or by other appropriate means will be directed. However, if the determination is with respect to still or motion picture film on nitrocellulose base that has deteriorated to the extent described in paragraph (b) of this section, the head of the agency may follow the procedure therein provided.

(b) Whenever any radar scope, aerial, or other still or motion picture film on nitrocellulose base has deteriorated to the extent that it is soft, is emitting a noxious odor, contains gas bubbles, or has retrograded into an acrid powder, and the head of the agency having custody of it determines that it constitutes a menace to human health or life or to property, he or she may cause such menace to be eliminated immediately by:

(1) Arranging for its destruction in a manner that will salvage its silver content;

(2) Burning, in the event the quantity is not sufficiently large to justify the salvaging of its silver content; or

(3) Other appropriate methods in the event that the methods provided in paragraph (b) (1) or (2) of this section are not feasible.

(c) These films should be removed from inhabited buildings as soon as possible.

(d) Those to be burned should be submerged in water-filled drums and conveyed to a remote spot approved by fire authorities for burning. Preferably, only one reel should be burned at a time, but in no event should more than 25 pounds be burned at the same time. The rapid production of gases by burning is extremely dangerous, particularly if burned in a furnace or other confined space. Within 30 days after the destruction of the film as provided in this section, the head of the agency who directed its destruction shall submit a written statement to the National Archives and Records Service describing the film and showing when, where, and how the destruction was accomplished.

(e) This report has been cleared in accordance with FPMR 101-11.11 and assigned Interagency Report Control Number 1095-GSA-AR.

§ 101-11.407-3 State of war or threatened war.

(a) Destruction of records outside the territorial limits of the continental United States is authorized whenever, during a state of war between the United States and any other nation or when hostile action by a foreign power appears imminent, the head of the agency that has custody of the records determines that their retention would be prejudicial to the interest of the United States, or that they occupy space urgently needed for military purposes and are without sufficient value to warrant preservation (44 U.S.C. 3311).

(b) Within 6 months after the disposal of any records under this authorization, a written statement describing the character of the records and showing when and where the disposal was accomplished shall be submitted to the National Archives and Records Service by the agency official who directed the disposal.

§ 101-11.408 Damage to and unauthorized disposition of records.

§ 101-11.408-1 Responsibilities.

(a) The Administrator of General Services and the heads of Federal agencies are responsible for preventing unauthorized disposition of records, including all forms of mutilation and alienation of records. Unauthorized disposition is the removal from Federal custody or destruction of records without regard to the provisions of agency disposition lists and schedules that have been approved by NARS or the General Records Schedules issued by NARS (44 U.S.C. 2095, 3106, and 3303a).

(b) The heads of Federal agencies are responsible for ensuring that all employees are aware of the provisions of the law relating to unauthorized disposal, alienation, or mutilation of records, and should direct that any such action be reported to them.

§ 101-11.408-2 Penalties.

The penalties for willful and unlawful destruction, damage, or alienation of Federal records are contained in 18 U.S.C. 2071.

§ 101-11.408-3 Reporting.

(a) The head of a Federal agency shall report any unlawful removal, defacing, alteration, or destruction of records in the custody of that agency to the General Services Administration (NCD). The report shall include:

(1) A complete description of the records with volume and dates if known;

(2) The office of origin;

(3) A statement of the exact circumstances surrounding the alienation, defacing, or destruction of the records; and

(4) A statement of the safeguards with specific procedures to be instituted to prevent further instances of loss of documentation.

(b) This report has been cleared in accordance with FPMR 101-11.11 and assigned Interagency Report Control Number 1096-GSA-AR.

(c) The Administrator of General Services will assist the head of the agency in contacting the Attorney General for the recovery of any unlawfully removed records.

§ 101-11.408-4 Exclusions.

Private or personal files are not governed by these provisions. Section 101-11.202-2(d) provides the legal definition of personal papers and prescribes standards for their maintenance.

§ 101-11.409 Transfer of records from the custody of one executive agency to another

§ 101-11.409-1 Authority.

The Administrator will issue regulations governing the transfer of records from the custody of one executive agency to another (44 U.S.C. 2908).

§ 101-11.409-2 Approval.

No records shall be transferred from the custody of one executive agency to another without the prior written approval of the National Archives and Records Service except as provided in § 101-11.409-9.

§ 101-11.409-3 Agency request.

The head of any executive agency may request the transfer of records to or from his or her agency. Approval shall be requested by letter addressed to the National Archives and Records Service (NCD), in which are included:

(a) A concise description of the records to be transferred, including the volume in cubic feet;

(b) A statement of the restrictions imposed on the use of records;

(c) A statement of the agencies and persons using the records and the purpose of this use;

(d) A statement of the current and proposed physical and organizational locations of the records;

(e) Information as to why the proposed transfer is in the best interests of the Government; and

(f) A justification for the transfer of records more than 5 years old.

§ 101-11.409-4 Agency concurrences.

Copies of the concurrence or nonconcurrence in the transfer by the heads of any agencies concerned shall be attached to the agency request.

§ 101-11.409-5 Records of terminated agencies

Transfers of records of executive agencies whose functions are terminated or are in process of liquidation are expressly subject to this Subpart 101-11.4 and no such transfers shall be made except in accordance with its provisions.

§ 101-11.409-6 Equipment.

Records storage equipment shall be transferred with the records contained therein in accordance with arrangements previously agreed to by the agencies concerned.

§ 101-11.409-7 Costs of transfers.

Approved transfers shall be made without reimbursement to the agency of original custody for any cost involved, except when this reimbursement is previously agreed to by the agencies concerned.

§ 101-11.409-8 Restrictions on use of records.

Whenever any records that are transferred are subject to restrictions upon their use imposed under a statute, Executive order, or agency determination, these restrictions shall continue in effect after the transfer. Restrictions imposed by agency determination may be removed by agreement between the agencies concerned.

§ 101-11.409-9 Exceptions.

Prior written approval of the National Archives and Records Service is not required when:

(a) Records are transferred to the Federal records centers or the National Archives in accordance with §§ 101-11.410 and 101-11.411.

(b) Records are loaned for official use.

(c) The transfer of records or functions or both is required by statute, Executive order, or Presidential reorganization plan, or by specific determinations made thereunder.

§ 101-11.410 Transfer of records to Federal records centers.

§ 101-11.410-1 Authority.

The Administrator of General Services is authorized to establish, maintain, and operate records centers for the storage, processing, and servicing of records for Federal agencies (44 U.S.C. 2907). These centers are known as Federal records centers. In addition, a National Personnel Records Center is maintained for designated records of the Department of Defense and the Office of Personnel Management and for other designated records pertaining to former Federal civilian employees. A list of these records centers follows:

GSA region	Areas served	Mailing addresses
	NATIONAL CENTERS	
	District of Columbia, Maryland, West Virginia, and Virginia (except U.S. Court records).	Washington National Records Center, Washington, DC 20409.
	Designated records of the Military Departments and the U.S. Coast Guard	National Personnel Records Center (Military Personnel Records), 9700 Page Boulevard, St. Louis, MO 63132.
	The entire Federal Government personnel records of separated Federal employees; medical and pay records of all Federal employees; designated medical records of Army and Air Force military personnel and their dependents; and records of agencies in the St. Louis area (Missouri only), of Scott AFB, IL, and of the Memphis Service Center, Internal Revenue Service.	National Personnel Records Center (Civilian Personnel Records), 111 Winnebago Street, St. Louis, MO 63118.
	REGIONAL CENTERS	
1	Maine, Vermont, New Hampshire, Massachusetts, Connecticut, and Rhode Island	Federal Archives and Records Center, 380 Trapelo Road, Waltham, MA 02154.
2	New York, New Jersey, Puerto Rico, and the Virgin Islands	Federal Archives and Records Center, Military Ocean Terminal, Building 22, Bayonne, NJ 07002.
3	Delaware, Pennsylvania, and U.S. court records for Maryland, Virginia, and West Virginia.	Federal Archives and Records Center, 5000 Wissahickon Ave., Philadelphia, PA 19144.
4	North Carolina, South Carolina, Tennessee, Mississippi, Alabama, Georgia, Florida, and Kentucky.	Federal Archives and Records Center, 1557 St. Joseph Ave., East Point, GA 30044.
5	Illinois, Wisconsin, Minnesota, and U.S. court records for Indiana, Michigan, and Ohio.	Federal Archives and Records Center, 7358 South Pulaski Rd., Chicago, IL 60629.
5	Indiana, Michigan, and Ohio except U.S. court records	Federal Records Center, 3150 Bertwynn Drive, Dayton, OH 45439.
6	Kansas, Iowa, Nebraska, and Missouri except greater St. Louis area	Federal Archives and Records Center, 2306 East Bannister Rd., Kansas City, MO 64131
	Greater St. Louis area (Missouri only)	National Personnel Records Center (Civilian Personnel Records), 111 Winnebago Street, St. Louis, MO 63118.
7	Texas, Oklahoma, Arkansas, Louisiana, and New Mexico	Federal Archives and Records Center, P.O. Box 6216, Fort Worth, TX 76115.
8	Colorado, Wyoming, Utah, Montana, North Dakota, and South Dakota	Federal Archives and Records Center, Bldg. 48, Denver Federal Center, P.O. Box 25307, Denver, CO 80225.
9	Nevada except Clark County, California except southern California, American Samoa	Federal Archives and Records Center, 1000 Commodore Drive, San Bruno, CA 94066.
9	Arizona; Clark County, Nevada; and southern California (counties of San Luis Obispo, Kern, San Bernadino, Santa Barbara, Ventura, Orange, Los Angeles, Riverside, Inyo, Imperial, and San Diego).	Federal Archives and Records Center, 24000 Avila Road, Laguna Niguel, CA 92677.
10	Washington, Oregon, Idaho, Alaska, Hawaii, and Pacific Ocean area (except American Samoa).	Federal Archives and Records Center, 6125 Sand Point Way, Seattle, WA 98115.

§ 101-11.410-2 Procedures for transfers to Federal records centers.

This section prescribes general procedures for the transfer of records to Federal records centers. For greater detail consult the GSA Records Management Handbook, Federal Archives and Records Centers (NSN 7610-00-298-6904).

(a) Federal records centers will accept for transfer any records of Federal agencies, subject to the following conditions:

(1) The records are properly scheduled. If the records are not scheduled, an exception to this regulation must be obtained by submitting a request in writing to the General Services Administration (NC), Washington, DC 20408.

(2) The records are not authorized for immediate destruction and transportation costs are not in excess of the resulting savings.

(3) Facilities for storing and providing reference on the records are available.

(b) Priority will be given to the removal of records from office space, from space convertible to office use, from leased space, and from filing equipment that can be reused.

(c) Inquiries concerning the appropriateness of transfers may be sent to the Director of the Federal records center in the GSA region in which the records are located. Inquiries shall specify the nature and quantity of the records proposed for transfer.

(d) Tranfers of records on an agencywide basis may be initiated by submitting a request to the General Services Administration (NC), Washington, D.C. 20408. Requests shall specify the nature and quantity of the records proposed for transfer.

(e) Transfers to Federal records centers shall be preceded by the submission of Standard Form 135, Records Transmittal and Receipt. An agency shall prepare an original and three copies of the Standard Form 135. One of the copies is retained by the agency as a file copy, and the original and two other copies are sent to the Federal records center to arrive at least 2 weeks (10 workdays) before the desired date of the records shipment. The records center will review the Standard Form 135 for completeness to determine the appropriateness of the transfer. If the transfer is approved, the records center may annotate block 6j of the Standard Form 135 with the Federal records center shelf location where each accession will be stored. The Federal records center returns two copies of the Standard Form 135 to the agency indicating that the records may be transferred. One of these copies shall be placed in the first carton of the shipment when the records are shipped to the center.

(f) The physical transfer of records to the center shall be accomplished as soon as possible after the agency has received the annotated copies of the Standard Form 135. Delay in shipment of more than 30 days will result in the return of the Standard Form 135 requiring the resubmission of transfer paperwork.

(g) Upon receipt of the records shipment at the center, the cartons are matched against the copy of the Standard Form 135 submitted with the transfer. That copy is signed by center officials and returned to the agency for its files. Any changes in location designation will be noted on this receipt copy before it is returned to the agency. This is the only receipt the center will provide for transferred material, including records having security classifications up to and including "Secret."

§ 101-11.410-3 Transfers to the National Personnel Records Center.

General Records Schedules 1 and 2 specify that certain civilian personnel and pay records shall be centralized at the National Personnel Records Center (Civilian Personnel Records) at St. Louis.

(a) The following three types of records are so specified:

(1) Official personnel folders of separated employees;

(2) Service record cards of employees who separated or transferred on or before December 31, 1947; and

(3) Audited individual earnings and pay cards and comprehensive payrolls.

(b) Official personnel folders should be transferred to the center in a sealed envelope or container. No advance notification or transmittal document is required from the transferring agency, and receipts will not be furnished for official personnel folders, loose papers intended for inclusion in these folders, or pay records.

(c) Agencies should make every effort to locate all documents required to be in the folder and file them before the folder is transferred to the National Personnel Records Center. Loose papers being prepared for transfer to the National Personnel Records Center for inclusion in official personnel folders previously sent to the records center must be thoroughly screened by the transferring agency of all temporary material, as defined in the Federal Personnel Manual. Only those papers specifically prescribed in the Federal Personnel Manual for permanent inclusion in each individual's folder should be forwarded. Each document must show the following identifying information: Current name and the name under which formerly employed (if different), date of birth and social security number, and date of separation. The transmittal should clearly identify the agency personnel office and address.

(d) Transfer of fiscal records shall be in accordance with the procedures outlined in § 101-11.410-2.

(e) Standard Form 127, Request for Official Personnel Folder (Separated Employee), shall be used by agencies in requesting transmission of personnel records of separated employees from the National Personnel Records Center. Use of this form ensures prompt transmission of the desired folders. It should be submitted to the National Personnel Records Center in duplicate.

§ 101-11.410-4 Transferring vital records to Federal records centers.

GSA provides for the storage and protection of rights and interests vital records under the dispersed concept as described in § 101-11.7. The facilities of all GSA Federal records centers (FRC) without regard to geographical location are now available for agencies desiring to store these records. Each GSA Federal records center has areas with suitable temperature and humidity controls allowing the safe storage of paper records, magnetic tape, and photographic film. Agencies may make arrangements through the General Services Administration (NC), Washington, D.C. 20408, for the transfer of indispensable vital records to these depositories and for their use.

§ 101-11.410-5 Surveying records for transfer to records centers.

The appropriate regional National Archives and Records Service facility will conduct surveys of the records accumulations of field offices of those agencies not operating approved records centers and recommend records to be transferred to Federal records centers. These recommendations will be submitted to the field office concerned and to the National Archives and Records Service (NC) for coordination with the appropriate agency headquarters. Surveys of records of agency headquarters normally will be made by the National Archives and Records Service (NC).

§ 101-11.410-6 Release of equipment.

File equipment received with the transfer of records to a Federal records center will normally be disposed of in accordance with applicable excess personal property regulations. An agency desiring return of the equipment should make this request before transfer of the records to the records center.

§ 101-11.410-7 Use of records in Federal records centers.

Each agency record which is accepted by the Administrator of General Services for storage, processing, and servicing in accordance with 44 U.S.C. 3103 shall, for the purposes of this section, be considered to be maintained by the agency which deposited the record. The Administrator of General Services will not disclose the record except to the agency which maintains the record, or under rules established by that agency which are not inconsistent with existing laws.

(a) Standard Form 180, Request Pertaining to Military Records, shall be used by Federal agencies to obtain information from military service records in the National Personnel Records Center (Military Personnel Records). Agencies may furnish copies of that form to the public to aid in inquiries and may direct non-Government organizations to the Superintendent of Documents to purchase quantities of the form.

(b) Requests for official civilian personnel files shall be made in accordance with § 101-11.410-3.

(c) For any other requests, agencies should use Optional Form 11, Reference Request—Federal Records Centers, or a form jointly designated by that agency and NARS.

§ 101-11.410-8 Disposal clearances for records in Federal records centers.

(a) Records at the National Personnel Records Center covered by General Records Schedules 1 and 2 will be destroyed in accordance with those schedules without further agency clearance.

(b) Other records of Federal agencies held by Federal records centers will be disposed of with the concurrence of the agency concerned by use of GSA Form 3170, Notice of Intent to Destroy Records, or other written concurrence for each disposal action. If an agency is notified of the eligibility of its records for disposal and the agency fails to respond to this notification within 90 calendar days, the records will be disposed of in accordance with the appropriate authority.

§ 101-11.411 Transfer of records to the National Archives.

[42 FR 57314, Nov. 2, 1977]

§ 101-11.411-1 National Archives defined.

The Federal Records Management Amendments of 1976 (44 U.S.C. 2901 (11)) defines the term "National Archives of the United States" as those official records which have been determined by the Archivist of the United States to have sufficient historical or other value to warrant their continued preservation by the Federal Government and which have been accepted by the Administrator of General Services for deposit in his custody.

[42 FR 57314, Nov. 2, 1977]

§ 101-11.411-2 Authority.

(a) *Transfer of records.* The Administrator is authorized by 44 U.S.C. 2103 to:

(1) Accept for deposit with the National Archives of the United States the records of a Federal agency or of the Congress determined by the Archivist of the United States to have sufficient historical or other value to warrant their continued preservation by the U.S. Government; and

(2) Direct and effect the transfer to the National Archives of the United States of Federal agency records that have been in existence for more than 50 years and that have been determined by the Archivist of the United States to have sufficient historical or other value to warrant their continued preservation by the U.S. Government, unless the head of the agency which has custody of the records certifies in writing to the Administrator that they must be retained in his custody for use in the conduct of the regular current business of the agency.

(b) *Custody of records transferred.* Under 44 U.S.C. 2104, the Administrator of General Services is responsible for the custody, use, and withdrawal of records transferred to him. When records, the use of which is subject to statutory limitations and restrictions, are so transferred, permissive and restrictive statutory provisions with respect to the examination and use of records applicable to the head of the agency from which the records were transferred or to employees of that agency are applicable to the Administrator, the Archivist of the United States, and the employees of the General Services Administration. When the head of an agency states in writing restrictions that appear to him to be necessary or desirable in the public interest on the use or examination of records being considered for transfer from his custody to the Administrator, the Administrator will impose the restrictions on the records so transferred. The Administrator will not remove or relax these restrictions without the concurrence in writing of the head of the agency from which the material was transferred or of his successor in function, if any. Heads of agencies must, however, justify and cite the statute or Freedom of Information Act exemption (5 U.S.C. 552(b)) that authorizes placing restrictions on the use or examination of records being considered for transfer. Statutory and other restrictions referred to in this section shall remain in force until the records have been in existence for 50 years unless the Administrator determines for specific bodies of records that the restrictions shall remain in force for a longer period. Restrictions on the use or examination of records deposited with the National Archives of the United States imposed by section 3 of the National Archives Act, approved June 19, 1934, shall continue in force regardless of the expiration of the tenure of office of the official who imposed them but may be removed or relaxed by the Administrator with the concurrence in writing of the head of the agency from which material was transferred or of his successor in function, if any.

(c) *Delegation of authority.* The Administrator's authority as explained in paragraphs (a) and (b) of this section has been delegated to the Archivist of the United States.

[42 FR 57314, Nov. 2, 1977]

§ 101-11.411-3 Types of records to be transferred.

(a) *General.* Records that have been determined by the Archivist of the United States to have sufficient historical or other value to warrant preservation; i.e., appraised by NARS and identified as permanent records, are normally transferred to the National Archives of the United States when:

(1) They are 50 years old; or

(2) At any age when:

(i) The originating agency no longer needs to use the records for the purpose for which they were created or in its regular current business; or

(ii) Agency needs will be satisfied by use of the records in NARS research rooms or by copies of the records; and restrictions on the use of records are acceptable to NARS, do not absolutely preclude use of the records by the public, and do not violate the Freedom of Information Act (5 U.S.C. 552). Records appraised as permanent that are not yet eligible for transfer because of agency needs or restrictions may be stored in a Federal records center pending transfer. (See § 101-11.410.)

(b) *Archival depositories.* NARS reserves the right to determine and change the archival depository in which records transferred to the National Archives of the United States are stored. Such determinations are normally made as follows:

(1) *Presidential libraries.* Records appropriate for preservation in a Presidential library because they can most effectively be used in conjunction with materials already in that library.

(2) *Regional archives.* (i) Records of field offices of Federal agencies;

(ii) Records including both headquarters and field office records of regional agencies such as the Tennessee Valley Authority; and

(iii) Other records determined by NARS to be of primarily regional or local interest.

(3) *National Archives Building and other Washington, D.C. area depositories.* (i) Records of the District of Columbia Government;

(ii) Records of field offices of Federal agencies that relate primarily to activities within the Washington, D.C. area; and

(iii) All other records not deposited in a Presidential library or regional archives.

[42 FR 57315, Nov. 2, 1977]

§ 101-11.411-4 Audiovisual records.

The following policies shall govern the transfer of audiovisual records to the National Archives:

(a) *Motion pictures.* The following copies shall be considered necessary for the preservation, duplication, and reference service of motion pictures:

(1) Agency-sponsored motion picture films for distribution (informational films):

(i) Original negative or color original plus separate optical sound track; and

(ii) Intermediate master positive or duplicate negative plus optical sound track; and

(iii) Sound projection print.

(2) Agency motion picture films made for internal use (program films):

(i) Original negative or color original plus sound, and

(ii) Projection print.

(3) Agency acquired motion picture films: Two projection prints.

(4) Unedited outtakes and trims (the discards of film productions) may be considered for deposit in the National Archives if they are properly arranged, labeled, and described and show unstaged, unrehearsed events of historical interest or historically significant phenomena. The following elements should be included:

(i) Original negative or color original; and

(ii) Work print.

(b) *Still pictures.* The following elements are necessary for the preservation, duplication, and reference service of each pictorial image:

(1) For black and white photographs, an original negative and a captioned print. If the original negative is nitrate or glass, a duplicate negative is also needed.

(2) For color photographs, the original color transparency or color negative, a captioned print, and an internegative if one exists.

(3) For slide sets, the original and a reference set, and the related audio recording and script if one exists.

(4) For other pictorial records such as posters, original artwork, and filmstrips, the original and a reference print.

(c) *Sound recordings.* The following types of audio documents are necessary for the preservation, duplication, and reference service of sound recordings:

(1) For conventional, mass-produced, or multiple-copy disc recordings, the master tape, the matrix or stamper of each sound recording, and a disc pressing of each recording.

(2) For magnetic sound recordings usually on audio tape (reel-to-reel, casette, or cartridge), the original tape or the earliest generation of the recording available and a "dubbing" if one has been made.

(d) *Video recordings.* The original or the earliest generation of the video recording is necessary for the preservation, duplication, and reference service of this medium. A kinescope of the recording may be substituted.

(e) *Finding aids and production documentation.* The following records shall be transferred to the National Archives with the audiovisual records to which they pertain:

(1) Existing finding aids such as data sheets, shot lists, continuities, review sheets, catalogs, indexes, lists of captions, and other textual documentation that are necessary or helpful for the proper identification, retrieval, and use of the audiovisual records; and

(2) Production case files or similar files that include copies of production contracts, scripts, transcripts, and appropriate documentation bearing on the origin, acquisition, release, and ownership of the production.

[42 FR 57315, Nov. 2, 1977]

§ 101-11.411-5 Cartographic and architectural records.

The following classes of cartographic and architectural records when they are no longer needed for purposes of current administration may be offered for appraisal and, if accepted, for direct transfer to the National Archives.

(a) *Maps and charts.* (1) Manuscript maps; printed and processed maps on which manuscript changes, additions, or annotations have been made for record purposes or which bear manuscript signatures to indicate official approval; and single printed or processed maps that have been attached to or interfiled with other documents of a record character or in any way made an integral part of a record.

(2) Master sets of printed or processed maps in the custody of the agency by which they were issued. Such master sets should be kept segregated from the stock of maps held for distribution and from maps received from other agencies. A master set should include one copy of each edition of a printed or processed map issued.

(3) Computer-related and computer-plotted maps that cannot be reproduced by the National Archives because of destruction of the magnetic tapes or other stored data or because of the unavailability of ADP equipment.

(4) Index maps, card indexes, lists, catalogs, or other finding aids that may be helpful in using the maps transferred.

(5) Records related to preparing, compiling, editing, or printing maps, such as manuscript field notebooks of surveys, triangulation and other geodetic computations, and project folders containing specifications to be followed and appraisals of source materials to be used.

(b) *Aerial photography and remote sensing imagery.* (1) Vertical and oblique negative aerial film, conventional aircraft.

(2) Annotated copy negatives, internegatives, rectified negatives, and glass plate negatives from vertical and oblique aerial film, conventional aircraft.

(3) Annotated prints from aerial film, conventional aircraft.

(4) Infrared, ultraviolet, multispectral (multiband), video, imagery radar, and related tapes, converted to a film base.

(5) Indexes and other finding aids in the form of photo mosaics, flight line indexes, coded grids, and coordinate grids.

(c) *Architectural and related engineering drawings.* (1) Design drawings, preliminary and presentation drawings, and models which document the evolution of the design of a building or structure.

(2) Master sets of drawings which document the condition of a building or structure in terms of its initial construction and subsequent alterations. This category includes final working drawings, "as-built" drawings, shop drawings, and repair and alteration drawings.

(3) Drawings of repetitive or standard details of one or more buildings or structures.

(4) "Measured" drawings of existing buildings and original or photocopies of drawings reviewed for approval.

(5) Related finding aids and specifications to be followed.

[42 FR 57315, Nov. 2, 1977]

§ 101-11.411-6 Machine-readable records.

The following policies shall govern the transfer of machine-readable records to the National Archives:

(a) *Magnetic tape.* Computer magnetic tape is a fragile medium, highly susceptible to the generation of errors by improper care and handling. To insure that permanently valuable information stored on magnetic tape is preserved, Federal agencies should schedule files for disposition as soon as possible after the tapes are written. When the National Archives and Records Service has determined that a file is worthy of preservation, the agency should transfer the file to the National Archives as soon as it becomes inactive or whenever the agency cannot provide proper care and handling of the tapes (see Subpart 101-32.12) to guarantee the preservation of the information they contain. The tapes to be transferred to the National Archives shall be written at 1600 CPI in ASCII or EBCDIC, and the data shall be stripped of all extraneous control characters except record length indicators (variable length records). The tapes on which the data are recorded shall be new or recertified tapes (see Subpart 101-32.12) which have been passed over a tape cleaner before writing and shall be rewound under controlled tension.

(b) *Other magnetic media.* When a machine-readable file that has been designated for preservation by the National Archives and Records Service is maintained on a direct access storage device, the file shall be written on new or recertified tape (see Subpart 101-32.12) at 1600 CPI in ASCII or EBCDIC, the data shall be stripped of all extraneous control characters except record length (variable length records), and this tape copy shall be transferred to the National Archives.

(c) *Documentation.* Documentation adequate for servicing machine-readable records that have been designated for preservation by the National Archives and Records Service shall be transferred with them. This documentation shall include, but not necessarily be limited to, completed GSA Form 7036, Magnetic Tape Record Inventory, and GSA Form 7091, Data Archives Inventory, or their equivalents. Where it has been necessary to strip data of extraneous control characters (see paragraphs (a) and (b) of this section), the codebook specifications defining the data elements and their values must match the new format of the data. Guidelines for determining the adequacy of documentation may be obtained from the Office of the National Archives, National Archives and Records Service (mailing address: General Services Administration (NNR), Washington, D.C. 20408).

[42 FR 57316, Nov. 2, 1977]

§ 101-11.411-7 Transfer of records listed in records control schedules.

This section applies to the transfer of records that have been appraised by NARS and that are listed as permanent in records control schedules approved since May 14, 1973.

(a) *From agency space.* Sixty days before the scheduled date of transfer to the National Archives, the transferring agency shall submit Standard Form 258, Request to Transfer—Approval and Receipt of Records to National Archives of the United States, to the General Services Administration (NN), Washington, D.C. 20408, or to the appropriate Regional Archives if so provided in the schedule. The remarks area of SF 258 shall include the appropriate records control schedule number or NARS appraisal job number and item number. NARS will review the SF 258 to determine whether specified restrictions are acceptable and whether adequate space and equipment are available, and will return the form to the agency with shipping or delivery instructions before the scheduled transfer date. Custody of the records passes to NARS when the records are received in a NARS depository.

(b) *From Federal records centers.* Federal records centers will initiate SF 258 and send it to the agency 90 days before the scheduled transfer date. The agency shall approve or disapprove the SF 258 and send it to the address indicated by the center 60 days before the transfer date. Custody of the records passes to NARS when the authorized agency and NARS representatives have signed the SF 258.

[42 FR 57316, Nov. 2, 1977]

§ 101-11.411-8 Transfer of unscheduled records.

This section applies to the transfer of records that have not been appraised by NARS or that were listed as permanent or retained on records control schedules approved before May 14, 1973.

(a) *From agency space.* The transferring agency shall send SF 258 to the Records Disposition Division, General Services Administration (NCD), Washington, D.C. 20408, for appraisal. If the records are not appraised as permanent. the Records Disposition Division will return the SF 258 to the agency with suggestions for disposition of the records. If the records are appraised as permanent, the Office of the National Archives will return the SF 258 with a transfer date and shipping or delivery instructions. Custody of the records passes to NARS when the records are received in a NARS depository.

(b) *From Federal records center space.* Standard Form 258 may be initiated by either the agency or the Federal records center. If initiated by the agency, the agency shall submit SF 258, accompanied by SF 135, Record Transmittal and Receipt, to the Records Disposition Division; the review and notification procedures are the same as in paragraph (a) of this section. If initiated by the Federal records center, the center will attach the SF 135 before sending the SF 258 to the agency for review, approval, and submission to the Records Disposition Division. In either case, custody of the records passes to NARS after the records have been appraised and when a NARS representative signs the SF 258.

[42 FR 57316, Nov. 2, 1977]

§ 101-11.411-9 Records subject to the Privacy Act of 1974.

Transfers of records constituting systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a) shall be accompanied by the most recent agency privacy notice covering the records.

[42 FR 57316, Nov. 2, 1977]

§ 101-11.411-10 Release of equipment.

Equipment received with the transfer of records to the National Archives will, when emptied, normally be retained by NARS or disposed of in accordance with applicable excess property regulations, unless the transferring agency requests its return.

[42 FR 57316, Nov. 2, 1977]

§ 101-11.411-11 Use of records transferred to the National Archives.

(a) In accordance with 44 U.S.C. 2104, restrictions lawfully imposed on the use of transferred records will be observed and enforced by NARS to the extent that they do not violate 5 U.S.C. 552. The regulations in this Part 101-11 and in Part 105-61 of this title, insofar as they relate to the use of records in the National Archives or in a Federal records center, apply to official use of the records by Federal agencies as well as to the public.

(b) In instances of demonstrated need, and subject to any restrictions on their use, records deposited in the National Archives or in a Regional Archives may be borrowed for official use outside the building in which they are housed by Federal agencies and the Congress, subject to the following conditions:

(1) Documents of high intrinsic value shall not be removed from the building in which they are housed except with the written approval of the Archivist;

(2) Records will not be loaned to enable agencies to answer routine reference inquiries from other agencies or the public;

(3) Records in fragile condition, or otherwise deteriorated to an extent that further handling will endanger them, will not be loaned;

(4) Each official who borrows records shall provide a receipt for them at the time they are delivered, and he shall assume responsibility for their prompt return upon the expiration of the time for which they are borrowed; and

(5) Each official who borrows computer magnetic tapes shall assume responsibility for proper care and handling of the tapes.

[42 FR 57316, Nov. 2, 1977]

§ 101-11.411-12 Disposal clearances.

No records of a Federal agency still in existence will be disposed of by NARS except with the concurrence of the agency concerned or as authorized on Standard Form 258, Request to Transfer—Approval and Receipt of Records to National Archives of the United States.

[42 FR 57316, Nov. 2, 1977]

§ 101-11.412 Agency records centers.

§ 101-11.412-1 Authority.

Federal agencies are authorized to maintain and operate records centers for the storage, processing, and servicing of appropriate records when these centers are approved by the Administrator (44 U.S.C. 3103). Centers operated by Federal agencies are referred to in this Part 101-11 as "agency records centers."

§ 101-11.412-2 Facility standards for agency records centers.

Inspection of agency records centers by GSA shall include an evaluation of the agency's compliance with the facility standards for records centers specified below:

(a) *General.* (1) The facility should be a single-story building constructed with noncombustible materials.

(2) A floor load limit shall be established for the records storage area by a structural engineer. The allowable load limit shall be posted in a conspicuous place and shall not be exceeded.

(3) Steel shelving or other open-shelf records storage equipment shall be braced to prevent collapse under full load in accordance with Federal Specifications AS-S-271 or AA-S-1047. The records storage height shall not exceed 15 feet. Agencies operating records centers which have storage heights in excess of 15 feet may apply in writing to the General Services Administration (NC), Washington, DC 20408, for an exemption to this requirement. If a request for exemption is denied, agencies will be required to remodel existing centers to meet the 15-foot requirement.

(4) The area occupied by the center shall be equipped with an anti-intru-

sion alarm system, or equivalent, to protect against unlawful entry after hours.

(b) *Fire safety.* (1) All walls separating records storage areas from each other and from other portions of the building shall be 4-hour fire resistant. Two-hour-rated firewalls shall be provided between the records storage areas and other auxiliary spaces. Penetrations in the walls shall not reduce the specified fire-resistance ratings.

(2) Openings in firewalls separating records storage areas shall be avoided as far as possible but if openings are necessary they shall be protected by self-closing or automatic Class A firedoors, or equivalent, on each side of the wall openings.

(3) Roof support structures that cross or penetrate firewalls shall be cut and supported independently on each side of the firewall.

(4) If firewalls are erected with expansion joints, the joints shall be protected to their full height with No. 10 iron astragals lapping the opening on each side of the firewall.

(5) Building columns in the records storage areas shall be 2-hour fire resistant from the floor to the point where they meet the ceiling or roof framing system.

(6) Automatic roof vents shall not be designed into new or existing buildings.

(7) Where light steel roof or floor supporting members; e.g., bar joists having top chords with angles 2 by 1½ inches or smaller, thickness one-fourth inch or smaller, and web diameters thirteen-sixteenths inch or smaller are present, they shall be provided with a 10-minute fire-resistant coating. The coating will be applied only to the top chords.

(8) Furnace or boiler rooms shall be separated from records storage areas by 4-hour-rated firewalls, with no openings directly from these rooms to the records storage areas. No open flame (oil or gas) equipment or unit heaters shall be installed or used in any records storage area.

(9) The arrangement of the records storage equipment shall be such that there shall be no dead-end aisles. Equipment rows running perpendicular to the wall shall terminate at least 18 inches from the wall.

(10) No oil-type electrical transformers, regardless of size, except thermally protected devices included in fluorescent light ballasts, shall be installed in the records storage areas. All electrical wiring shall be in metal conduit, except that armored cable may be used where flexible connections to light fixtures are required.

(11) All records storage and adjoining areas shall be protected by automatic wetpipe sprinklers. Automatic sprinklers are specified herein because they provide the most effective fire protection for high-piled storage of paper records on open-type shelving.

NOTE: Other automatic extinguishing systems or protective measures may provide an acceptable level of fire-loss risk depending upon specific conditions, such as type or importance of the records, the type of storage equipment used, or how the space is designed, controlled, and operated. For a discussion of these measures, refer to the guides on records protection available from the National Fire Protection Association (NFPA 232 and NFPA 232AM). Also, consult the Chief of the Accident and Fire Prevention Branch in the GSA regional office about these systems and protective measures.

(12) The sprinkler system shall be rated at 286 degrees Fahrenheit and designed to provide 0.30 gpm per square foot for the most remote 1,500 square feet of floor area with a minimum flowing pressure of 7.0 psi at the most remote sprinkler head. Installation shall be in accordance with Standard Number 13 of the National Fire Protection Association.

(13) Maximum spacing of the sprinkler heads shall be on a 10-foot grid and the positioning of the heads shall provide complete, unobstructed coverage, with a clearance of not less than 18 inches from the top of the highest stored materials.

(14) The sprinkle system shall be equipped with a water-flow alarm connected to a continuously staffed fire department or central station, with responsibility for immediate response.

(15) A manual fire alarm system shall be provided with central station service or other automatic means of notifying the municipal fire depart-

ment. A manual alarm pull station shall be located adjacent to each exit. Supplemental manual alarm stations are permitted within the records storage areas.

(16) All water cutoff valves in the sprinkler system shall be equipped with automatic closure alarm connected to a continously staffed station, with responsibility for immediate response.

(17) A dependable water supply free of interruption shall be provided. This normally requires a backup supply system having sufficient pressure and capacity to meet both firehose and sprinkler requirements for 2 hours.

(18) Interior firehose stations shall be provided in the records storage areas, equipped with 1½-inch diameter rubber or latex hose, enabling any point in the records storage area to be reached by a 50-foot hose stream from a 100-foot hose lay.

(19) In addition to the designed sprinkler flow demand, 500 gpm shall be provided for hose stream demand. The hose stream demand shall be calculated into the system at the base of the main sprinkler riser.

(20) Fire hydrants should be located within 250 feet of each exterior entrance or other access to the records center that could be used by firefighters. All hydrants should be at least 50 feet away from the building walls and adjacent to a roadway usable by fire apparatus.

(21) Portable water-type fire extinguishers (2½-gallon stored pressure-type) shall be provided at each fire alarm striking station.

(22) Catwalks may be provided in the aisles between the metal stacks in high-activity records storage areas without provision of sprinklers under the walkway. Where provided, the walking surface of the catwalks shall be of expanded metal at least 0.09-inch thickness with a 2-inch mesh length. The surface opening ratio shall be equal to or greater than that outlined in Military Specification (MIL-M-17194C) of March 8, 1955. The sprinkler water demand for protection over bays with catwalks where records are not oriented perpendicular to the aisles shall be calculated hydraulically to give 0.3 gpm per square foot for the most remote 2,000 square feet.

(23) Storage of hazardous cellulose nitrate film requires special facilities not covered by the above standards. (See NFPA 40 and NFPA 232.)

§ 101-11.412-3 Requests for authority to establish or relocate records centers.

No agency records center shall be established or relocated from one city to another without the prior written approval of GSA.

(a) *Exclusions.* (1) Staging areas containing less than 5,000 square feet of space used by agencies for the temporary storage of materials preparatory to their transfer to a records center or other disposition, provided no records are held in staging areas in excess of 5 years. The facility standards in § 101-11.412-2 apply to these staging areas.

(2) Areas of less than 5,000 square feet used solely for the storage of records to which occasional reference is made but on which no processing activity (screening and microfilming, etc.) is performed. The facility standards in § 101-11.412-2 apply to these records areas.

(b) *Content of requests.* Requests for authority to establish or relocate an agency records center shall be submitted in writing to the Administrator of General Services. These requests shall specify:

(1) Proposed location of the agency records center,

(2) Space to be occupied in gross square feet,

(3) Nature and quantity of records to be stored,

(4) Total personnel to be employed, and

(5) Justification for the proposed center which shall include a comparison between the annual cost per cubic foot to store the records in the agency records centers and the cost to store the same records in a GSA Federal records center. An analysis of GSA's Federal records center space and equipment cost may be obtained from the Office of Federal Records Centers (NC), General Services Administration, Washington, DC 20408. The justification also should indicate whether the records to be stored in the agency

center have high security classification, require specialized processing or high-cost indexing, or are to be used by technical agency personnel stationed at the records center.

(c) *Approval of requests.* Requests for the establishment or relocation of an agency records center will be approved by the Administrator of General Services when greater economy or efficiency can be achieved through its operation than by the use of a Federal records center operated by GSA.

(d) *Annual agency records center report.* Each Federal agency operating one or more agency records centers shall submit to the General Services Administration (NC) a report on Standard Form 137, Agency Records Center Annual Report (see § 101-11.4905), for each center within 60 days after the close of each fiscal year.

(e) This annual report has been cleared in accordance with FPMR 101-11.11 and assigned Interagency Report Control Number 1097-GSA-AN.

Subpart 101-11.5—Micrographics

AUTHORITY: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c))

SOURCE: 44 FR 15716, Mar. 15, 1979, unless otherwise noted.

§ 101-11.500 Scope of subpart.

This subpart provides (a) standards, regulations, and guidelines for using micrographics technology in the creation, use, storage, retrieval, preservation, and disposition of Federal Government records and (b) information concerning micrographics services available from the National Archives and Records Service (NARS). Additional guidance on the use of micrographics is available in NARS records management handbooks.

§ 101-11.501 Authority.

As provided in 44 U.S.C. chapters 29 and 33, the Administrator of General Services is authorized to (a) establish standards for the photographic and micrographic production and reproduction of records by Federal agencies with a view to disposal of the original records; (b) establish uniform standards within the Government for the storage, use, and disposition of processed microfilm records; (c) develop and promote standards to improve the management of records; and (d) establish, maintain, and operate centralized microfilming services for Federal agencies.

§ 101-11.502 Definitions.

For the purpose of this Subpart 101-11.5, the following definitions shall apply:

(a) *Archival microfilm.* Silver halide microfilm meeting the requirements of Federal Standard No. 125D, Film, Photographic and Film, Photographic, Processed (for permanent records use); American National Standards Institute (ANSI) Standard PH1.25-1976 Safety Photographic Film, Specifications for; PH1.28-1976 Photographic Film for Archival Records, Silver Gelatin Type on Cellulose Ester Base, Specifications for; PH1.41-1976 Photographic Film for Archival Records, Silver Gelatin Type on Polyester Base, Specifications for; when tested by ANSI Standard PH4.8-1971, Methylene Blue Method for Measuring Thiosulfate and Silver Densitometric Method for Measuring Residual Chemicals in Films, Plates, and Papers; and stored in accordance with ANSI Standard PH1.43-1976, Storage of Processed Safety Photographic Film, Practices for.

(b) *Computer Output Microfilm (COM).* Microfilm containing data produced by a recorder from computer-generated signals.

(c) *Facility.* An area set aside for equipment and operations required in the production or reproduction of microforms either for internal use or for the use of other organizational elements of the Federal Government.

(d) *Microfilm.* (1) Raw (unexposed and unprocessed) film with characteristics that make it suitable for use in micrographics;

(2) The process of recording microimages on film; and

(3) A fine-grain, high-resolution photographic film containing an image greatly reduced in size from the original.

(e) *Microform.* A term used for any form containing microimages.

(f) *Micrographics.* The science and technology of document and information microfilming and associated microform systems.

(g) *Microimage.* A unit of information, such as a page of text or a drawing, that has been made too small to be read without magnification.

(h) *Permanent Record.* Any record (see 44 U.S.C. 3301) that has been determined by the Archivist of the United States to have sufficient historical or other value to warrant its continued preservation by the Government.

(i) *Micrographic System.* A configuration of equipment and procedures for the production, reproduction, maintenance, storage, retrieval, display, or use of microforms. A micrographic system may involve one or more, but not necessarily all, of the functions listed above.

§ 101-11.503 Agency program responsibilities.

Each agency shall:

(a) Issue internal regulations and procedures for the submission, review, and approval or disapproval of proposed micrographic systems and applications;

(b) Issue procedures for evaluating the continued efficiency and effectiveness of micrographic systems and applications;

(c) Review ongoing micrographic systems periodically for conformance to established policies, procedures, and standards;

(d) Develop and maintain a complete and accurate inventory of micrographic production and reproduction equipment within the agency; e.g., cameras, processors, duplicators, COM recorders for the purpose of resource management. The inventory shall, as a minimum, include: Type of equipment, name of manufacturer, model and serial number, date of acquisition, location, and purchase or rental status;

(e) Disseminate all NARS publications containing micrographics standards and guidelines and other current information concerning the advantages and limitations of micrographic systems to managers and operating officials involved in the development or operation of micrographic systems;

(f) Assign responsibility for the review and approval of all micrographic systems to a specific office or official. The responsible office or official shall establish procedures for the review and approval of ongoing and proposed system and application requests to ensure that they are complete and contain the information shown in § 101-11.505; and

(g) Submit to General Services Administration (NRO), Washington, DC 20408, one copy of agency directives issued in accordance with § 101-11.503 (a), (b), and (f).

§ 101-11.504 NARS responsibilities.

NARS shall:

(a) Disseminate to agencies the standards and criteria necessary for developing, evaluating, and operating micrographic systems. This includes:

(1) Information to acquaint potential users with micrographics technology and its various applications;

(2) Methods and procedures for conducting feasibility studies;

(3) Criteria for estimating cost and guidelines for comparing existing and proposed systems with alternative approaches;

(4) Standards for microforms and formats, and guidelines for selecting appropriate micrographic systems for specific types of applications; and

(5) Standards and guidelines for evaluating the continuing efficiency and effectiveness of micrographic systems;

(b) Analyze Government-wide practices through research projects and inspections to determine areas in which the application of micrographics will improve efficiency and effectiveness in the creation and use of documents and information;

(c) Conduct periodic inspections of agencies' micrographics programs as part of the NARS records management program evaluation prescribed in § 101-11.103, Agency program evaluation;

(d) Coordinate with the Government Printing Office (GPO) on matters involving micropublishing, with the National Bureau of Standards (NBS) on Federal Information Processing Standards concerning micrographics, and with the Automated Data and Telecommunications Service (ADTS), GSA, on procurement and use of COM equipment;

(e) Respond within 60 days to agency requests to the Office of Federal Records Centers (NC) for authorization to dispose of original records after microfilming as prescribed in § 101-11.506-1; and

(f) Provide centralized micrographic services described in § 101-11.510.

§ 101-11.505 Micrographic systems analysis.

(a) A system analysis including a cost/benefit analysis shall be conducted by the agency prior to the decision to establish a micrographic system. The cost/benefit analysis shall include a comparative cost analysis in accordance with Office of Management and Budget (OMB) Circular A-76, if it meets the guidelines described therein.

(b) The system analysis shall contain the following items:

(1) An examination of the current operating system to evaluate the need for the documents or information and the use to which they are put,

(2) A consideration of the alternatives to micrographics including such measures as:

(i) Revising records control schedules to provide for the disposition of paper records by disposal, by transfer of inactive paper records to the Federal records centers, or by offer of permanently valuable paper records to the National Archives and Records Service; and

(ii) Improving current retrieval and distribution procedures using paper records.

(3) A consideration of all feasible alternative methods of creating the microform records, such as:

(i) Purchase, lease, or lease-purchase of equipment.

(ii) Sharing micrographic production equipment already in the agency.

(iii) Using the micrographic facility of another agency.

(iv) Contracting for NARS reimbursable micrographic services.

(v) Contracting with a non-Government commercial services firm.

(vi) Other alternatives identified in the analysis.

(4) An analysis of the workload and staffing requirements to ensure sufficient trained personnel to operate and maintain the micrographic system.

(5) An examination of the information needs of the user when determining reduction ratio, format, quality control procedures, viewing equipment, and user training.

(6) A review to ensure compatibility of microforms used within the agency and those used to transmit information to other agencies and the public.

(7) A determination of the availability and cost of specialized space requirements: i.e., temperature, humidity control, or plumbing.

(c) The chosen alternative shall be the most cost effective and efficient system unless overriding intangible benefits necessitate an alternate decision.

(d) Procurement of COM equipment is subject to the provisions of 41 CFR 101-32 covering utilization and procurement of automatic data processing equipment.

(e) Procurement of equipment for micropublishing is subject to the provisions of the Government Printing and Binding Regulations published by the Joint Committee on Printing, Congress of the U.S.

§ 101-11.506 Standards and guidelines for creation of microform records.

§ 101-11.506-1 Authorization.

(a) Agencies proposing to microfilm records to dispose of the original records shall request authority on Standard Form (SF) 115, Request for Records Disposition Authority, in accordance with § 101-11.406-2. The SF 115 shall provide for the disposition of original records and microforms.

(1) Agencies proposing microfilming methods and procedures meeting the standards in § 101-11.506-3 shall include on the SF 115 the following certification: "This certifies that the records described on this form will be microfilmed in accordance with the standards set forth in 41 CFR 101-11.506."

(2) Agencies whose proposed microfilming methods and procedures do not meet the standards in § 101-11.506-3 shall include on the SF 115 a

description of the system and standards proposed for use.

(b) Agencies proposing to retain and store the silver original microforms of permanent records after disposal of the original records shall include on the SF 115 a statement that storage conditions shall adhere to the standards of §§ 101-11.507 and 101-11.508. Such agencies shall also indicate when the first inspection of microfilm required by § 101-11.507-2 will be conducted.

(c) Agencies proposing to retain the original records in accordance with the approved records disposition schedule should not submit an SF 115. These agencies may apply agency standards and requirements for creation of microforms of the records. The agency shall, however, ensure that the requirements of § 101-11.503 are satisfied.

§ 101-11.506-2 Preparation.

(a) The integrity of the original records authorized for disposal shall be maintained by ensuring that the original microforms are adequate substitutes for the original records and serve the purpose for which such records were created or maintained. Copies shall be complete and contain all record information shown on the originals.

(b) The records shall be arranged, identified, and indexed so that any individual document or component of the records can be located. At a minimum, the records shall include information identifying the agency and organization; the title of the records; the number of identifier for each unit of film; the security classification, if any; and the inclusive dates, names, or other data identifying the records to be included on a unit of film.

§ 101-11.506-3 Microfilming.

(a) The film stock used to make microforms of permanent records for the purpose of disposal of the original shall conform to Federal Standard No. 125D and be on safety-base permanent record film as specified in ANSI PH1.25-1976, Safety Photographic Film, Specifications for; PH1.28-1976, Photographic Film for Archival Records, Silver Gelatin Type on Cellulose Ester Base, Specifications for; PH1.41-1976, Photographic Film for Archival Records, Silver Gelatin Type on Polyester Base, Specifications for; and tested according to PH1.29-1971, Curl of Photographic Film, Methods for Determining the; and PH1.31-1973, Brittleness of Photographic Film, Method of Determining the. Procedures for testing are covered in Federal Standard No. 170B, Film Photographic, Black and White, Classification and Testing Methods, which cites ANSI standards. To ensure protection for permanent records, agencies using microfilm systems which do not produce silver halide originals meeting the above standards shall submit with the SF 115 required by § 101-11.506-1, a schedule for the production of silver duplicates meeting the standards.

(b) All indexes, registers, or other finding aids, if microfilmed, shall be placed in the first frames at the beginning of a roll of film or in the last frames of a microfiche or microfilm jacket. Computer-generated microforms shall have the indexes following the data on a roll of film or in the last frames of a microfiche or microfilm jacket. Other index locations may be used only if dictated by special system constraints.

(c) Systems that produce original permanent records on microfilm with no paper original; e.g., COM, shall be designed so that they produce microfilm which meets the standards of this § 101-11.506-3.

(d) Microfilm processing.

(1) Microforms of permanent records planned for the purpose of disposal of the original shall be processed so that the residual thiosulfate ion concentration will not exceed 0.7 microgram per square centimeter in a clear area. Agencies or services that conduct tests for Federal agencies shall meet this requirement by performing the methylene blue test specified in ANSI PH4.8-1971. Agencies that do not have testing facilities or use commercial testing services shall submit a sample for testing from a clear area of the film measuring at least 6 square inches (i.e., 12 inches of 16mm film; 6 inches of 35mm film, 3 aperture cards, or 1 microfiche), to General Services Administration (NAP), Washington, DC

20408. A charge will be made for each sample tested. Charges are announced in the FPMR Bulletins.

(2) If the processing is to be of the reversal type, it shall be full photographic reversal; i.e., develop, bleach, expose, develop, fix, and wash.

(e) *Quality standards.* (1) The method for determining minimum resolution on microforms of source documents shall conform to the Quality Index Method of determining resolution and anticipated losses when duplicating as described in the National Micrographics Association (NMA) Recommended Practice MS104.

(i) For permanent records, a Quality Index of five is required at the third-generation level.

(ii) For nonpermanent records, a Quality Index of five is required at the level of the specific number of generations used in the system.

(iii) Resolution tests shall be performed using the NBS 1010a Microcopy Resolution Test Chart and the patterns will be read following the instructions provided with the chart.

(iv) The character used to determine the height used in the Quality Index formula shall be the smallest character used to display record information.

(2) The background photographic densities on microforms must be appropriate to the type of documents being filmed. Recommended background densities are as follows:

Classification	Description of documents	Background density
Group 1	High-quality printed books, periodicals, and dense typing	1.30-1.50
Group 2	Fine-line originals, letters typed with a worn ribbon, pencil writing with a soft lead, and documents with small printing.	1.15-1.40
Group 3	Pencil drawings, faded printing, graph paper with pale, fine colored lines, and very small printing such as footnotes.	1.00-1.20
Group 4	Very weak pencil manuscripts and drawings, and poorly printed, faint documents.	0.90-1.10
Group 5	COM	1.50-2.00

The procedure for density measurement is described in NMA Recommended Practice MS104-1972.

(3) Computer Output Microforms shall meet the NMA Standard MS1-1971, Quality Standards for Computer Output Microfilm.

(f) *Microforms and formats.* (1) The following formats shall be mandatory standards for microforms produced by or for Federal agencies:

(i) The formats described in ANSI Standard MS14-1978, Specifications for 16 and 35mm Microfilms in Roll Form, shall be used for microfilming source documents on 16mm roll film. A reduction ratio of 24:1 shall be used whenever document size permits.

(ii) The formats described in ANSI Standard MS14-1978, Specifications for 16 and 35mm Microfilms in Roll Form, shall be used for microfilming source documents on 35mm roll film. When microfilming on 35mm film for aperture card applications, format 2 prescribed in MIL-STD 399A, Military Standard Microform Formats, shall be mandatory.

(iii) Format 3 prescribed in MIL-STD 399A shall be used for aperture cards.

(iv) For microfilming source documents on microfiche, the formats prescribed in MIL-STD 399A and the standards and specifications referenced therein shall be used where appropriate for the size of documents being filmed.

(v) Mandatory Federal COM format standards are contained in Federal Information Processing Standards (FIPS) Publication Number 54 which is hereby incorporated by reference.

(2) The outside dimensions for microfilm jackets shall be 148.00+0.00 −1.00mmX105.00+0.00−0.75.

(g) *Microfilm duplicating.* The production of more than 250 duplicates from an original microform: i.e., one roll of microfilm 100 feet in length or one microfiche, requires the approval of the Joint Committee on Printing, Congress of the United States, as set forth in the Government Printing and Binding Regulations. Administrative records and accounting reports are exempted from this requirement.

§ 101-11.507 Standards and guidelines for the maintenance of microform records.

§ 101-11.507-1 Storage.

Nonpermanent microform records can be safely maintained under the same conditions as most paper records. The following standards as specified in ANSI PH1.43-1976 are required for storing permanent record microforms:

(a) Microforms stored in roll form shall be wound on cores of reels made of noncorroding materials such as nonferrous metals or inert plastics. Other metals may be used provided that they are coated with a corrosion-resistant finish. Plastics and coated metals that may exude fumes during storage shall not be used. Rubber bands shall not be used for confining film on reels or cores. If paper bands are used, the paper shall meet the specifications of ANSI PH1.53-1978.

(b) Storage containers for microforms shall be made of inert materials such as metal or plastic. Containers made of paper products should be avoided unless the conditions prescribed in ANSI Standard PH1.53-1978 are met. The containers shall be closed to protect the microforms from environmental inpurities and improper humidities.

(c) Storage rooms or vaults for archival microforms shall be fire-resistant and must not be used for other purposes such as storage of other materials, office space, or working areas. The National Fire Protection Association (NFPA) publication NFPA 232, Protection of Records, 1970, provides further guidance. Protection from damage by water shall be accomplished by storing permanent record microforms above reasonably anticipated flood stages.

(d) *Environmental conditions required.* (1) The relative humidity of the storage room or vault shall range from 20 to 40 percent with an optimum of 30 percent. Rapid and wide-range humidity changes will be avoided and shall not exceed a 5 percent change in a 24-hour period.

(2) Temperature shall not exceed 70° F. Rapid and wide-range temperature changes shall be avoided and shall not exceed a 5 percent change in a 24-hour period. A storage temperature of 35° F. or below should be used for color film.

(3) Solid particles, which may abrade film or react with the image, shall be removed by mechanical filters from air supplied to housings or rooms used for archival storage. The mechanical filters are preferably of dry media type having an arrestance or cleaning efficiency of not less than 85 percent as determined by the stain test described in ASHRAE Standard 52-68(11).

(4) Gaseous impurities such as peroxides, oxidizing agents, sulphur dioxide, hydrogen sulfide, and others which cause deterioration of microforms shall be removed from the air by suitable washers or absorbers. Archival microforms shall not be stored in the same room with nonsilver gelatin films. They also shall not be stored in another room using the same ventilation system because gases given off by the other films may damage or destroy the images on the silver archival films.

§ 101-11.507-2 Inspection.

(a) Master films of permanent record microforms and records microfilmed to dispose of the original record shall be inspected every 2 years during their scheduled life. The inspection shall be made using a 1 percent randomly selected sample in the following categories: 70 percent microforms not previously tested, 20 percent—microforms tested in the last inspection, and 10 percent—control group. The control group shall represent samples of microforms from the oldest microforms filmed through the most current. The results of the inspection shall be reported to General Services Administration (NC), Washington, DC 20408, 30 days after the inspection is completed. Reports shall include (1) the quantity of microform records on hand; i.e., number of rolls and number of microfiche; (2) the quantity of microforms inspected; (3) the condition of the microforms; (4) any defects discovered; and (5) corrective action taken.

(b) The elements of the inspection shall consist of (1) an inspection for aging blemishes following the guidelines in the National Bureau of Standards Handbook 96, Inspection of Processed Photographic Record Films for Aging Blemishes; (2) a rereading of resolution test targets; (3) a remeasurement of density; and (4) a certification of the environmental conditions under which the microforms are stored, as shown in § 101-11.506-1.

(c) An inspection log shall be maintained. Information to be contained in the log shall include (1) a complete description of all records tested (title; number or identifier for each unit of film; and inclusive dates, names, or other data identifying the records on the unit of film); (2) the record group; i.e., newly tested, previously tested; or control group; (3) the date of inspection; (4) the elements of inspection; (5) the defects uncovered; and (6) the corrective action taken. In addition, the log shall contain the results of all archival film tests required by § 101-11.506-3.

(d) An agency having in its custody a master microform that is deteriorating, as shown by the inspection, shall prepare a silver duplicate to replace the deteriorating master.

(e) Agencies are responsible for the inspection of agency microfilm records transferred to Federal Records Centers.

§ 101-11.508 Standards and guidelines for the use of microform records.

(a) The master microform shall not be used for reference purposes. Duplicates shall be used for reference and for further duplication on a recurring basis or for large-scale duplication, as for distribution of records on microform. Agency procedures shall ensure that master microforms remain clean and undamaged during the duplication process.

(b) Agencies retaining the original record in accordance with an approved records disposition schedule may apply agency standards for the use of microform records.

§ 101-11.509 Disposition of microform records.

The disposition of microform records shall be carried out in the same manner prescribed for other types of records in Subpart 101-11.4, with the following additional requirements;

(a) The silver halide original (or a silver halide duplicate microform record created in accordance with § 10-111.506-3), plus one copy (silver, diazo, or vesicular), for permanent records, of each record microfilmed by an agency, shall be verified for completeness and accuracy. The microforms shall be transferred to an approved agency records center, the National Archives, or to a Federal Records Center, at the time that the records are to be retired in accordance with the approved records control schedule.

(b) The microforms shall be accompanied by information identifying the agency and organization; the title of the records; the number or identifier for each unit of film; the security classification, if any; the inclusive dates, names, or other data identifying the records to be included on a unit of film; and a certification by an agency official that the microforms were produced in the normal course of agency operations and that care has been taken to ensure that the microforms are a complete and accurate copy of the original records.

§ 101-11.510 Centralized micrographic services.

§ 101-11.510-1 Services available.

The following micrographic services of the National Archives and Records Service are available to Federal agencies:

(a) Technical advice and assistance in designing and implementing agency projects and programs to preserve records, reduce volume, provide security copies, make duplicate copies, or improve information retrieval systems;

(b) Information on current uses of micrographics, new micrographic techniques, and developments in the field; and

(c) Reimbursable microfilming services including the preparation, indexing, and filming of records, inspection of film, and labeling of film containers.

§ 101-11.510-2 Requesting services.

(a) Agencies desiring technical assistance from NARS should communicate with General Services Administration (NR), Washington, DC 20408, or the appropriate regional National Archives and Records Service.

(b) Agencies desiring microfilming services should contact General Services Administration (NC), Washington, DC 20408, or the nearest regional Office of the National Archives and Records Service or any of the Federal Archives and Records Centers.

§ 101-11.510-3 Fees for services.

The fees for microfilming services will be announced in GSA bulletins. For microfilming services not listed, contact the office shown in § 101-11.510-2(b).

Subpart 101-11.6—Records Equipment and Supplies

§§ 101-11.601—101-11.602 [Reserved]

§ 101-11.603 Stationery standards.

§ 101-11.603-1 General provisions.

This § 101-11.603 prescribes the standards for the specifications and use of blank and printed papers and mailing envelopes used by executive agencies for official Government correspondence. Standards are also prescribed for the United States Government Memorandum, Messenger Envelope, and Memorandum of Call. The standards are mandatory unless approval for exception is obtained from GSA. Nothing in these standards shall be construed as superseding in any manner the provisions of "Government Paper Specification Standards" issued by the Joint Committee on Printing.

§ 101-11.603-2 Standard specifications.[1]

A Table of Standard Specifications prescribes the color, size, and quality of paper and color of ink for stationery used for Government correspondence, as follows:

TABLE OF STANDARD SPECIFICATIONS

Item	Color		Size	Qualities of paper shall not exceed	
	Paper	Printing		Grade	Substance [1]
STATIONERY					
Letterhead stationery	White	Black or blue	8" × 10½" 8" × 7" 8" × 5¼"	50 percent rag or 25 percent rag	32 40
Continuation sheets	White	None	8" × 10½"	50 percent rag or 25 percent rag	32 40
Manifold (tissue) sheets containing letterhead.	White	Black or blue	8" × 10½"	25 percent rag	18
Memorandum stationery	White or blue	Black	8" × 10½". 8" × 7"	CW (writing) or	40

See footnotes at end of table.

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[1] See Temporary Regulation B-5 in the appendix to Subchapter D for temporary changes to § 101-11.603-2.

TABLE OF STANDARD SPECIFICATIONS—Continued

Item	Color		Size	Qualities of paper shall not exceed	
	Paper	Printing		Grade	Substance[1]
			8" × 5¼"		32
				25 percent rag	
Continuation sheets	White or blue	None	8" × 10½".		40
				CW (writing) or 25 percent rag	32
Manifold (tissue) sheets not containing letterhead.	White[2]	None	8" × 10½"		18
				25 percent rag	
FORMS					
United States Government Memorandum (Optional Form 10).	White	Black	8" × 10½" 8" × 5¼".		40
				CW (writing)	
Memorandum of call (S.F. 63 (pads)).	(3)	(3)	4" × 5¼"		
				(3) (3)	
	Brown	Dark brown	9½" × 12"	Kraft	100
Messenger envelope (S.F. 65).			12" × 16"		

[1] Substance weight is pounds per 1000 sheets, 17" × 22".

[2] Other colors may be used pursuant to par. 3(d) but quality shall not exceed 25 percent rag—Sub. 18.

[3] At discretion of GPO.

§ 101-11.603-3 Letterhead stationery.

Letterhead stationery is used in formal correspondence where a quality paper identifying the agency is needed. The style and format for letterhead stationery may be selected by the ordering agency provided they meet the standard specifications in § 101-11.603-2 and the printing requirements of the Government Printing and Binding Regulations.

§ 101-11.603-4 Memorandum stationery.

Memorandum stationery is on paper of less expensive quality and easily distinguishable from letterhead stationery. It is to be used, when suitable, for informal intra-agency and interagency communications, including agency-numbered forms and form letters. It is also used for correspondence with State and local government agencies in the administration of cooperative programs, and for other informal correspondence. It will be used where Optional Form 10, United States Government Memorandum (§ 101-11.4912), will not adequately serve agency needs. (See § 101-11.603-11.) Memorandum stationery shall contain the masthead "United States Government Memorandum" at the top left half of the sheet (§ 101-11.4911). Printing of the agency name is optional; when included, the name shall be in the space indicated at the top right. If needed, multiple-address communications and designated fill-in spaces may be arranged and printed on memorandum stationery for transmittal and reference. The form may be designed for multiple-address communications and use in window envelopes.

§ 101-11.603-5 Continuation sheets.

Continuation sheets, for use with either letterhead or memorandum stationery, shall bear no printing.

§ 101-11.603-6 Manifold (tissue) sheets.

Manifold sheets, commonly called tissues, are for use in making carbon copies. Tissues containing printed letterheads are for use in making carbon copies that are sent outside the agency when identification of the agency is necessary. The printing shall be in the same format and ink color as used on letterheads. Tissues used for internal copies of correspondence, including continuation sheets, shall contain no printing. Distinctive colors may be used for internal reference file purposes.

§ 101-11.603-7 [Reserved]

§ 101-11.603-8 Envelopes (printing).

Agency identification or address, the penalty or postage and fees paid clause, and the designation "official business" shall be printed in either black or blue ink.

§ 101-11.603-9 Envelopes; borders, markings, etc.

Borders, markings, slogans, or designs shall not be printed on mailing envelopes except when specifically approved by GSA and in conformity with postal laws and regulations. As a general policy, both to reduce costs and to prevent undue publicizing of some activities of the Government in contrast to others, the use of borders, markings, slogans, or designs to support an agency or its program shall not be authorized in any form, whether printed, stamped, or otherwise affixed.

§ 101-11.603-10 Procurement forms.

The optional and standard forms prescribed in §§ 101-11.603-11—101-11.603-14 shall be procured from the Federal Supply Service, GSA. Existing stocks of old Standard Forms 63, 64, and 65 and Optional Form 10 shall be used until supplies are exhausted.

§ 101-11.603-11 Optional Form 10, United States Government Memorandum, May 1962.

This form is designed to facilitate informal intra- or interagency correspondence, including correspondence with State and local government agencies in the administration of cooperative programs. It provides designated spaces for the insertion of names or identification of addressee and sender along with description of subject matter and date, following the format of discontinued Standard Form 64. Optional Form 10 is printed without agency name. It is intended for use by those agencies whose needs are met by a simple format and whose requirements, if any, for the agency name or special fill-in data on memorandum stationery do not justify a special printing. (See § 101-11.4912.)

§ 101-11.603-12 Standard Form 63, Memorandum of Call, Nov. 1961.

This form serves as notification of an incoming telephone call or of a visitor when the person called or visited is not available. It also is used in referring a visitor to an appropriate person. (See § 101-11.4913.)

§ 101-11.603-13 Standard Form 65, U.S. Government Messenger Envelope, Nov. 1961.

This form is for repetitive use in transmitting communications and printed matter between offices within the same city. Consecutive spaces are provided for inserting the name and address for the current transmittal. The "Stop" number space is used primarily in the Washington, D.C., area but may be used elsewhere, if appropriate. (See § 101-11.4914.)

§ 101-11.603-14 Optional Form 27, United States Government 2-Way Memo.

This form is a 3-part snap-out set with interleaved carbon for informal communications. The message and reply are placed on the same page in brief informal language. It can be sent and returned in a window envelope, if an envelope is necessary. Each packet of 100 forms is accompanied by "Guides to Simplified Informal Correspondence." (See §§ 101-11.4915 and 101-11.4916.)

Subpart 101-11.7—Vital Records: Records During an Emergency

§ 101-11.701 Emergency preparedness program; vital records.

§ 101-11.701-1 Purpose.

This § 101-11.701 provides for the selection and protection of vital records required in the development of Federal agency emergency preparedness programs.

[43 FR 43461, Sept. 26, 1978]

§ 101-11.701-2 Authority.

Executive Order 11490 of October 28, 1969 (34 FR 17567; 3 CFR, 1966-1970 Comp., p. 820) assigns certain emergency preparedness functions to the Administrator of General Services, including provision for instructions on the appraisal, selection, preservation, arrangement, reference, storage, and salvage of essential records. The Federal Preparedness Agency, in accordance with that agency's responsibilities prescribed in Executive Orders 11051 of September 27, 1962 (27 FR 9683; 3 CFR, 1959-1963 Comp., p. 635) and 11490, has reviewed and approved the requirements set forth in this Subpart 101-11.7.

[41 FR 3739, Jan. 26, 1976]

§ 101-11.701-3 Background.

(a) *General.* The original requirements for vital operating records protection programs were set forth in Bureau of the Budget Bulletins No. 51-14, May 22, 1951, and No. 52-5, September 6, 1951. Subsequent Government organizational and functional changes caused revisions in reporting requirements. The annual report reflecting the status of the vital records program of each Federal agency is no longer required.

(b) *Criteria and guides.* The Federal vital records program includes two basic categories: Emergency operating records and rights and interests records. The GSA Records Management Handbook entitled "Federal Archives and Records Center" provides further clarification of the two categories of records.

[43 FR 43461, Sept. 26, 1978]

§ 101-11.701-4 Definitions.

The following definitions are pertinent to the development of a vital records program:

(a) "Emergency operating records" are records vital to the essential functions of the Federal Government for the duration of an emergency if the country is attacked. These records include those necessary for the military effort; the mobilization and protection of material and manpower resources, of services, and of systems; the maintenance of public health, safety, and order; and the conduct of essential civil defense activities. These records must be available as needed at or in the vicinity of emergency operating centers.

(b) "Rights and interests records" are records essential to the preservation of the legal rights and interests of individual citizens and their Government. These records include such groups as social security records, retirement records, payroll records, insurance records, and valuable research records. These records require protection, but storage points do not have to be at or in the vicinity of emergency operating centers.

[43 FR 43461, Sept. 26, 1978]

§ 101-11.701-5 Program considerations.

(a) Strong management support is required within each department and agency to meet the records needs of emergency preparedness. Sound judgment must be exercised in identifying records essential to an agency's effectiveness during an emergency. Agencies should be aware that during an emergency those who will be using records may not be the same as those who refer to them under normal conditions.

(b) In identifying its vital records, an agency should keep the volume of records at a manageable level, and retrieval procedures should require only routine effort to locate needed information. The program should be simple and concise, avoiding complex and difficult procedures whenever possible.

(c) An agency's vital records protection program should be reviewed on an annual basis. The program may be considered effective if the records selected for inclusion are current, complete, adequately protected, accessible, and immediately usable.

[43 FR 43461, Sept. 26, 1978]

§ 101-11.701-6 Vital records storage at GSA Federal Archives and Records Centers.

(a) The General Services Administration provides for the storage, protection, and servicing of rights and interests vital records. The facilities of all Federal records centers, regardless of geographic location, are available for agencies desiring to store these records. In addition to storage space for paper records, each GSA records center (except the FRC in Mechanicsburg, PA) has environmentally controlled space suitable for the storage of vital records on magnetic tape and photographic film.

(b) Agencies may make arrangements for the transfer of their rights and interests records to any of the records centers by contacting the appropriate center director, NARS Regional Commissioner, or the Office of Federal Records Centers (mailing address: General Services Administration (NC), Washington, DC 20408).

[43 FR 43461, Sept. 26, 1978]

Subpart 101-11.8—Standard and Optional Forms Program

SOURCE: 40 FR 27656, July 1, 1975, unless otherwise noted.

§ 101-11.800 Scope of subpart.

(a) This subpart sets forth the scope, objectives, guidelines, and procedures required to manage and operate the Standard and Optional Forms Program. This program is a centralized and specialized implementation of the Government-wide forms management policies and guidelines prescribed in § 101-11.208-1, Forms—Agency program responsibilities.

(b) The scope of the Standard and Optional Forms Program is Government-wide and focuses on those forms which are the information or data carriers for standardized systems that are developed and installed throughout the Federal establishment. The benefits which can be accrued from standardization are well known and the Standard and Optional Forms Program has the potential to make a substantial contribution in this area; for example:

(1) Similar forms and systems frequently are used for essentially the same purpose in different agencies of the Government. In such instances the development of a Standard or Optional form can result in substantial benefits to the Government.

(2) New programs, new legislation, and the establishment of new agencies provide numerous opportunities for beneficial standardization.

(3) The expanded use of computers and communication systems makes the standardization of data elements as well as formats for the interchange of information increasingly more essential.

§ 101-11.800-1 Benefits and objectives.

The benefits of a standardized forms program include uniform and improved procedures for processing forms, reduced printing and stocking costs, reduced training time of employees, and simplified direction and application. The objectives of the Standard and Optional Forms Program are to:

(a) Conduct continuing analysis of Government-wide practices to determine potential for economy and simplification of paperwork by standardizing data elements and systems, with particular attention to systems employing computers and electronic communications;

(b) Assist agencies in studies and projects to consolidate similar forms and systems;

(c) Coordinate these studies and projects with all interested agencies;

(d) Serve as approval authority for the clearance of new and revised Standard and Optional forms; and

(e) Ensure that all applicable laws, statutes, and regulations (e.g., Freedom of Information Act (5 U.S.C. 552), the Privacy Act of 1974 (Pub. L. 93-579), and Federal Information Processing Standards (FIPS) issued under the provisions of Pub. L. 89-306 (79 Stat. 1127) are considered in the development and review of all Standard and Optional forms.

§ 101-11.801 Authority.

(a) The Standard and Optional Forms Program was developed and operated by the Office of Management and Budget (OMB) consistent with the authorities prescribed by the Budget and Accounting Act of 1921. Responsibility for the program was assumed on May 29, 1967, by GSA/NARS through agreement with OMB.

(b) The Standard and Stock forms promulgated by the Comptroller General or those subject to his approval pursuant to the provisions of section 309 of the Budget and Accounting Act of 1921 (31 U.S.C. 49) and section 114 of the Accounting and Auditing Act of

1950 (31 U.S.C. 66(b)) are excluded from the clearance authorities of this program. (However, such forms will be included in the GSA/NARS clearance procedures contained herein.)

§ 101-11.802 Definitions.

§ 101-11.802-1 Form.

A form is any document, including letters, post cards, and memorandums, printed or otherwise reproduced with space for filling in information, descriptive material, or addresses. Certain printed items without fill-in space, such as contract provisions, instruction sheets, notices, tags, labels, and posters, may be considered as forms when it is advantageous to identify and control them as forms for purposes of reference, printing, stocking, distribution, and use with other forms.

§ 101-11.802-2 Standard form.

A Standard form is a form prescribed by a Federal agency, pursuant to its authority, and approved by GSA for mandatory use. Such mandatory use is set forth in regulations of the promulgating agency (§ 101-11.802-4).

§ 101-11.802-3 Optional form.

An Optional form is a form developed for use in two or more agencies and approved by GSA for nonmandatory use. The availability of the form is usually announced by the sponsoring agency (§ 101-11.802-5).

§ 101-11.802-4 Promulgating agency.

A promulgating agency is any Federal agency that develops and prescribes a Standard form as defined in § 101-11.802-2.

§ 101-11.802-5 Sponsoring agency.

A sponsoring agency is any Federal agency that develops an Optional form as defined in § 101-11.802-3.

§ 101-11.803 Agency program responsibilities.

Each agency shall:

(a) Develop each new and revised Standard and Optional form in accordance with the:

(1) Forms design guidelines specified in the applicable forms management handbook in the GSA/NARS Records Management series; e.g., Forms Analysis, Forms Design, Specialty Forms;

(2) Agency's chartered mission, responsibilities, and regulatory authority;

(3) Applicable Federal Information Processing Standards (FIPS) established by the National Bureau of Standards, Department of Commerce, under the provisions of Pub. L. 89-306 (79 Stat. 1127); Executive Order 11717 dated May 9, 1973; and 15 CFR Part 6;

(4) Provisions of the Freedom of Information Act (5 U.S.C. 552); and

(5) Provisions of the Privacy Act of 1974 (Pub. L. 93-579).

(b) Designate an official and an alternate to serve as liaison with NARS on the Standard and Optional Forms Program. Submit in writing the name, title, location, and telephone number of each designee to the General Services Administration (NRI), Washington, D.C. 20408. Submit similar information for each replacement representative to the above address within 30 calendar days after the new appointment is made.

(c) Avoid duplication of existing Standard and Optional forms and encourage originators of forms to consider using an existing form instead of developing a new one.

(d) Periodically review all Standard and Optional forms it originates to (1) cancel those not in use, (2) identify those that need revision, and (3) determine those that could be consolidated with similar Standard and Optional forms originated by other agencies.

(e) Distribute the GSA/NARS approved list of current Standard and Optional forms to appropriate agency forms officials.

(f) Obtain Standard and Optional forms in the manner prescribed in § 101-26.302.

(g) Return all printing proofs to General Services Administration (NRI), Washington, D.C. 20408, within 5 workdays after receipt.

§ 101-11.804 GSA/NARS responsibilities.

GSA/NARS will:

(a) Review and/or approve all new or revised Standard and Optional forms,

(b) Maintain and distribute to all agencies a current list of all approved Standard and Optional forms,

(c) Provide technical assistance and consulting services on the management of Standard and Optional forms,

(d) Coordinate with GAO and OMB all Standard and Optional forms within their clearance jurisdiction,

(e) Develop, initiate, and coordinate special studies on Government-wide forms practices to determine potential areas for economy and simplification of paperwork by standardizing data elements and systems,

(f) Ensure that all proposed Standard and Optional forms are in conformance with the provisions of applicable laws, statutes, and regulations (e.g., Freedom of Information Act, the Privacy Act of 1974, Federal Information Processing Standards), and

(g) Return all printing proofs to GSA/Region 3 Federal Supply Service within 10 workdays after receipt.

§ 101-11.805 Approval procedures.

This section prescribes the procedures applicable to Federal agencies and GSA/NARS when establishing, revising, or discontinuing Standard or Optional forms.

§ 101-11.805-1 Standard forms.

(a) *New and revised Standard forms.* (1) Standard forms shall be submitted to NARS by the promulgating agency, using Standard Form 152, Request for Clearance, Procurement, or Cancellation of Standard and Optional Forms, after necessary coordination with those organizations outside the promulgating agency. List the names, titles, and organizations of persons with whom this material was discussed. Indicate concurrences. Summarize any major problems on which agreement could not be reached. (See form illustrated in § 101-11.4920.)

(2) NARS will notify the promulgating agency of its approval or disapproval by an appropriate entry in Section III of Standard Form 152. If the form is approved, one signed copy will be returned to the promulgating agency for its records; the second copy will be furnished to GSA/Region 3 Federal Supply Service to provide printing and stocking specifications for procuring stock of the approved Standard form. (See § 101-26.302.)

(3) When such a Standard form is printed, the Standard form number assigned by NARS, the month and year of promulgation (or the month and year of revision), the name of the promulgating agency, and a reference citation of the agency regulation which requires its mandatory use as a Standard form will appear on the lower right corner of the form.

(b) *Discontinuance of Standard forms.* Before a promulgating agency notifies the using agency that the mandatory use of a Standard form is no longer required, it shall notify NARS of its intention. In such instances, NARS may (1) authorize continued use of the form on an optional basis, (2) make arrangements for the form to be promulgated as a Standard form by another agency, or (3) concur with the promulgating agency that there is no need for the continued use of the form. NARS will inform the promulgating agency of its decision.

§ 101-11.805-2 Optional forms.

(a) Proposed Optional forms or revisions to existing Optional forms shall be submitted to NARS by the sponsoring agency using Standard Form 152. NARS will evaluate such proposals in consultation with interested agencies and will indicate its decision by an appropriate entry in Section III of Standard Form 152. If the form is approved, one copy will be returned to the sponsoring agency for its records; the second copy will be sent to GSA/Region 3 Federal Supply Service to provide printing and stocking specifications for procuring stock of the approved Optional form. (See § 101-26.302-6.)

(b) When such an approved Optional form is printed, the Optional form number assigned by NARS, the month and year of approval (or the month and year of the revision), and the name of the sponsoring agency will appear on the lower right corner of the form. When a form is approved for optional use, announcement thereof will usually be made to potential users by the sponsoring agency.

§ 101-11.806 Special provisions.

§ 101-11.806-1 Exceptions to Standard forms.

In the interest of establishing and maintaining uniformity to the greatest extent feasible, every effort should be exerted to keep exceptions of Standard forms to a minimum. Exceptions affected by paragraphs (a) and (b) of this section will carry the notation "exception to SF-XXX approved by (*final clearing agency*) (*month*) (*year*)" below the form number element. If this is not possible, the exception approval should be printed in an area close to the form number element.

(a) When an agency believes it is not feasible to use a Standard form for its purpose and in the prescribed manner or when it desires to make substantive changes in the content of an approved Standard form which do not affect format or printing specifications, that affected agency shall submit to the promulgating agency identified on the Standard form its request for exception or deviation with an appropriate explanation and justification. The promulgating agency shall, after review, forward its reply to the requesting agency and send a copy of the reply to General Services Administration (NRI), Washington, D.C. 20408. Such exceptions become void when a Standard form is revised.

(b) When an agency desires to alter the format or change printing specifications of an approved Standard form, that agency shall submit, on Standard Form 152 to the agency identified on the Standard form as the promulgating agency, its request for exception or deviation with an appropriate explanation and justification. The promulgating agency shall, after review, forward the request with its own recommendations to NARS for final clearance.

(c) If overprinting of Standard forms is desired, it is permissible without clearance from the promulgating agency, provided such overprinting is fully consistent with the purposes and intent of the Standard form and procurement is in accordance with § 101-26.302. Overprinting may include names, addresses, or uniform entries.

§ 101-11.806-2 Application of Federal Information Processing Standards (FIPS) to Standard and Optional forms.

Each proposed Standards and Optional form shall be reviewed for applicability and shall be used in conformance with FIPS to the extent they are applicable. FIPS that are applicable to Standard and Optional forms are part of a Government-wide program for standardizing data elements and representations which are used and interchanged in Government data systems. The objective of this standardization program is to make maximum use of the data resources of the Federal Government and to avoid unnecessary duplications and incompatibilities in collecting, processing, and disseminating data. The current FIPS publications will be used in reviewing each proposed Standard and Optional form. (Information concerning these standards and their availability can be obtained from the office of ADP Standards Management, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234.)

(a) *Applicability.* The following types of standards as defined in FIPS publications apply to Standard and Optional forms:

(1) Federal General and Federal Program Data Standards, and

(2) Other ADP standards for media, interchange codes, data transmission, and optical character recognition are applicable when data is to be collected and interchanged in a machine readable form.

(b) *Certification.* After the proposed Standard or Optional form has been reviewed and compared with applicable FIPS, one or more of the following certifications will be indicated in block 12 of SF 152.

(1) "Format and contents are in conformance with FIPS PUB Nos. (enter applicable numbers)."

(2) "Format and contents are not applicable to FIPS."

(3) "Approval has been obtained to deviate from FIPS (attach copy of approval)."

§ 101-11.806-3 Employee suggestions.

Employee suggestions that propose changes in the design, printing specifications, or use of a Standard or Optional form should be sent to the promulgating/sponsoring agency for evaluation.

§ 101-11.806-4 Standard and Stock (Optional) forms subject to GAO approval.

Standard and Stock forms promulgated by or subject to the approval of the Comptroller General are also included in the GSA/NARS clearance procedures contained herein. By agreement between GSA and GAO, Standard and Stock form requests shall be submitted to General Services Administration (NRI), Washington D.C. 20408, using SF 152.

§ 101-11.806-5 Standard and Optional forms interface with public reports approved by GAO.

(a) Pursuant to the Federal Reports Act of 1942, as amended (87 Stat. 593), GAO is responsible for the clearance of reports requested from the public by regulatory agencies of the executive branch. Proposed new, revised, and exceptions to forms must be cleared by GAO as well as GSA/NARS.

(b) By agreement between GSA and GAO, such Standard and Optional forms public report documents shall be submitted to General Services Administration (NRI), Washington, D.C. 20408, using Standard Form 83, Clearance Request and Notice of Action. NARS will forward the request documents to GAO for review and approval. Only items 6, 14, 15, and 16 need to be filled in on the SF 83 when it is forwarded with the SF 152.

§ 101-11.806-6 Standard and Optional forms interface with public reports approved by OMB.

(a) Pursuant to the Federal Reports Act of 1942 (44 U.S.C. 3501-3512), OMB is responsible for the clearance of reports requested from the public by nonregulatory agencies of the executive branch and for reports from Federal agencies or employees which are to be used for statistical compilations of general public interest. Proposed new, revised, and exceptions to forms must be cleared by OMB (OMB Circular A-40, Revised), and by GSA/NARS.

(b) By agreement between GSA and OMB, such Standard and Optional forms public report documents shall be submitted to General Services Administration (NRI), Washington, D.C. 20408, using SF 83. NARS will forward the documents to OMB for review and approval. Only items 6, 14, 15, and 16 need to be filled in on the SF 83 forwarded with the SF 152.

§ 101-11.806-7 Standard and Optional forms interface with interagency reports approved by GSA.

Pursuant to the Federal Records Act (44 U.S.C. 3102) and OMB Circular A-40, Revised, subject: Management of Federal reporting requirements, GSA is responsible for the clearance of reports levied on an executive branch agency by another agency (interagency reports). Standard and Optional forms used for interagency reporting purposes shall be submitted to General Services Administration (NRI), Washington, D.C. 20408, using Standard Forms 152 and 360, Request for Clearance of an Interagency Reporting Requirement, for review and approval.

§ 101-11.806-8 Forms promulgated by the Interagency Committee on Medical Records.

The Interagency Committee on Medical Records is responsible for standardizing and promulgating forms used as medical records, such as medical examination forms and clinical and health records. The Committee will review all proposed Standard forms in this subject area.

[40 FR 29722, July 15, 1975]

§ 101-11.807 Procurement of stocks of Standard and Optional forms.

General procedures for procuring stocks of Standard and Optional forms or modifications thereof are in § 101-26.302, Standard and Optional forms.

§ 101-11.808 Agency compliance.

NARS conducts periodic reviews of each agency to assess its records management programs and achievements as outlined in § 101-11.103, Agency program evaluation. The Standard and Optional Forms Program is one item in the review of agency records management programs.

Subpart 101-11.9—Word Processing

§ 101-11.900 Scope.

This subpart sets forth the policies and procedures for managing word processing in the Federal Government.

[42 FR 43082, Aug. 26, 1977]

§ 101-11.901 Word processing.

As used in this subpart, "word processing" is the manipulation of textual material through the use of a keyboarding device capable of controlled storage, retrieval, and automated typing.

[42 FR 43082, Aug. 26, 1977]

§ 101-11.902 Equipment.

Equipment used in word processing applications may include but is not limited to the following:

(a) Dictation recording and transcription equipment;

(b) Automatic repetitive typewriters;

(c) Stand-alone text-editing typewriters;

(d) Stand-alone video-display text-editing typewriters;

(e) Shared-logic systems comprised of keyboard terminals, video-display units, minicomputers, and associated printing devices used primarily for word processing; and

(f) Keyboard terminals and associated printing devices (dedicated primarily to word processing) used to access Government or commercial computer services. Word processing proposals involving remote terminal operations or data systems applications must also comply with Subparts 101-32 and 101-35.

[42 FR 43083, Aug. 26, 1977]

§ 101-11.903 Federal agency program responsibilities.

Each agency shall:

(a) Assign responsibility for the review and approval of all word processing applications to a specific official or office that will:

(1) Establish and issue procedures for submitting, reviewing, and approving or disapproving all proposals for the installation of word processing systems and equipment; those approval procedures should be reviewed periodically to keep abreast of current technology and records management practices;

(2) Review each proposed installation to:

(i) Ensure that an objective need for increased efficiency and effectiveness has been established and that all reasonable alternatives to the use of word processing equipment have been considered, including such measures as training to improve typing skills, improving correspondence management practices, work simplification, functional specialization, and using or improving the use of dictation equipment;

(ii) Determine the feasibility of reassigning underutilized word processing equipment within the organization or agency;

(iii) Ensure that a comparative cost analysis of the existing and proposed systems has been made;

(iv) Assess the potential for future expansion within the agency;

(v) Ascertain the feasibility of standardizing equipment in applications involving shared workload; and

(vi) Ensure selection of the appropriate category of equipment for the specific application;

(3) Establish and issue procedures for evaluating the productivity of word processing applications;

(4) Periodically audit word processing installations for conformance with established policies and procedures; and

(5) Develop and maintain a complete inventory of the owned, rented, and leased equipment dedicated to or used primarily for word processing applications within the agency (Agency inventories should be maintained at an organizational level sufficient to ensure optimum use of the equipment. The inventory should include such items as name of manufacturer; model number or designation; location; purchase, rental, or lease cost; date of acquisition; and category as defined in § 101-11.902.);

(b) Make available all GSA publications containing word processing standards and guidelines for use within the agency; and

(c) Disseminate current information concerning the applications, advantages, and disadvantages of word processing techniques and equipment to managers and operating officials.

[40 FR 25592, June 17, 1975, as amended at 42 FR 43082, Aug. 26, 1977]

§ 101-11.904 NARS responsibilities.

To assist Federal agencies in planning, developing, and evaluating word processing, NARS will:

(a) Make available to all agencies the standards, guidelines, and criteria necessary for developing, evaluating, and operating word processing activities. Specifically, this would include:

(1) Current information to acquaint potential users with the concept of word processing and its various applications;

(2) Methods and procedures for conducting word processing feasibility studies;

(3) Cost estimating criteria and guidelines for comparing existing and proposed applications with alternative approaches;

(4) Standards and guidelines necessary to evaluate the productivity of word processing installations; and

(5) Guidelines for selecting appropriate categories of equipment for specific applications;

(b) Analyze Government-wide practices to determine areas in which the application of word processing will improve the efficiency and/or increase the cost effectiveness of office operations;

(c) Conduct periodic reviews of agencies' word processing programs as part of the NARS evaluations prescribed in § 101-11.103, Agency program evaluation; and

(d) Advise GSA's Automated Data and Telecommunications Service and Federal Supply Service on matters concerning equipment to be used in word processing applications.

[40 FR 25592, June 17, 1975, as amended at 42 FR 43083, Aug. 26, 1977]

Subpart 101-11.10—Technical Assistance

Source: 35 FR 18970, Dec. 15, 1970, unless otherwise noted.

§ 101-11.1000 Scope.

This subpart contains information and procedures pertaining to the furnishing of technical assistance services to Federal agencies by the National Archives and Records Service, General Services Administration.

§ 101-11.1001 Services available.

The following services are available to Federal agencies from the National Archives and Records Service:

(a) Technical advice and assistance on agency records management programs and activities as described in this Part 101-11;

(b) Various types of studies and surveys in records management areas; and

(c) General paperwork systems studies.

§ 101-11.1002 Technical advice and assistance on records management programs.

The National Archives and Records Service provides technical advice and guidance to Federal agencies in the conduct of their records management activities. This includes assistance in the development of records management programs concerned with the creation, organization, maintenance and use, and disposition of agency records.

§ 101-11.1003 Technical assistance involving studies and surveys.

At the request of Federal agencies, the National Archives and Records Service conducts studies and surveys for agencies involving any one or a combination of the records management areas described in this Part 101-11. These studies and surveys are normally on a reimbursable basis.

§ 101-11.1004 General paperwork systems studies.

At the request of Federal agencies, and normally on a reimbursable basis, the National Archives and Records

Service also conducts general paperwork systems studies.

(a) A general paperwork systems study is defined as a systematic and detailed cost/benefit analysis which identifies and defines systems requirements for effective, efficient, and economical management and operation, and the alternative methods to satisfy these requirements; and recommends the optimum paper work systems arrangement for management approval. The general paperwork systems study covers all management and operating processes, whether or not electronic data processing equipment is involved. Where electronic data processing services are involved, the general paperwork systems study will include all (1) manual and machine steps from initiation of the process to prescription of output and the delivery of valid input to the computer center and (2) processes covering the adequacy of the output and its use.

(b) A general paperwork systems study is not concerned with the actions taken to convert input into automatic data processing equipment to prescribed computer outputs. Agencies desiring assistance in such detailed automatic data processing systems design, as defined in § 101-32.801-2 of this chapter, should communicate with the nearest Federal Data Processing Center as provided for in that section.

§ 101-11.1005 Requests for service.

Agencies desiring any of the services from GSA provided for in this Subpart 101-11.10 should communicate with the Office of Records Management (NM), National Archives and Records Service, General Services Administration, Washington, D.C. 20408, or the National Archives and Records Service at the nearest GSA regional office.

Subpart 101-11.11—Interagency Reports Management Program

SOURCE: 41 FR 8772, Mar. 1, 1976, unless otherwise noted.

§ 101-11.1100 Scope of subpart.

(a) This subpart sets forth the scope, objectives, guidelines, and procedures required to manage and operate the Interagency Reports Management Program. The program is a centralized and specialized implementation of the Government-wide reports management policies and guidelines prescribed in § 101-11.207, Reports—agency program responsibilities.

(b) The scope of the Interagency Reports Management Program is Government-wide and includes the output (report) of interagency systems or procedures and the reporting systems themselves. The program focuses on the cost effectiveness of interagency reporting requirements to ensure that total reporting system costs are measured against the need for information.

§ 101-11.1100-1 Benefits and objectives.

The benefits of a centralized management program for interagency reporting requirements include systematic compilation and maintenance of a Government-wide inventory, improved technical guidance and coordination, less duplication, and uniform information control policies, costing, and clearance. The objectives of the Interagency Reports Management Program are to:

(a) Ensure that agencies of the executive branch implement effective management controls over interagency reporting requirements based on an objective cost-effectiveness evaluation of each requirement;

(b) Define and assess interagency reporting requirements in planning new programs and implementing major policy;

(c) Establish and maintain a central inventory of approved interagency reporting requirements; and

(d) Ensure that applicable laws and statutes (e.g., Freedom of Information Act (5 U.S.C. 552), the Privacy Act of 1974 (5 U.S.C. 552a), and Federal Information Processing Standards (FIPS) (40 U.S.C. 759(f); 15 CFR Part 6)) are considered in the development of interagency reporting requirements.

§ 101-11.1101 Authority.

The provisions of this subpart are issued pursuant to the Federal Records Act (44 U.S.C. Chapters 29 and 31) and Office of Management and

Budget Circular A-40, Revised, May 3, 1973.

§ 101-11.1102 Definitions.

For the purposes of this subpart, the following definitions shall apply.

§ 101-11.1102-1 Report.

Data or information which is transmitted for use in determining policy; planning, controlling, and evaluating operations and performance; making administrative determinations; or preparing other reports. The data or information may be in narrative, statistical, graphic, or other form and may be displayed on paper, magnetic tapes, or other media.

§ 101-11.1102-2 Reporting.

The process by which data or information for a report is collected, organized, transmitted, and retained.

§ 101-11.1102-3 Interagency reporting requirement.

Any requirement that involves a report to an agency from one or more other agencies covered by the Federal Records Act.

§ 101-11.1102-4 Agency.

A department, independent agency, commission, or establishment of the executive branch.

§ 101-11.1102-5 Requiring agency.

An agency establishing an interagency reporting requirement.

§ 101-11.1102-6 Responding agency.

An agency required to respond to an interagency reporting requirement.

§ 101-11.1102-7 Interagency Reports Coordinator.

The official designated by an agency to: Sign and submit Standard Form 360, Request for Clearance of an Interagency Reporting Requirement; respond to requests from requiring agencies for interagency reports cost estimates; maintain official agency records on interagency reporting requirements; and serve as liaison between agency components and other agencies on interagency reporting matters.

§ 101-11.1103 Agency program responsibilities.

Each agency shall:

(a) Designate an official and an alternate to serve as the Interagency Reports Coordinator. Submit in writing the name, title, location, and telephone number of each designated Interagency Reports Coordinator to the General Services Administration (NRI), Washington, D.C. 20408. Submit similar information for each replacement representative to the above address within 30 calendar days after the new appointment is made.

(b) Develop new and revised interagency reporting requirements in accordance with the:

(1) Reports management and costing guidelines issued by GSA/NARS;

(2) Agency's chartered mission, responsibilities, and regulatory authority;

(3) Applicable Federal Information Processing Standards (FIPS), established by the National Bureau of Standards, Department of Commerce, under the provisions of 40 U.S.C. 759(f); Executive Order 11717 dated May 9, 1973; and 15 CFR Part 6;

(4) Provisions of the Freedom of Information Act (5 U.S.C. 552); and

(5) Provisions of the Privacy Act of 1974 (5 U.S.C. 552a);

(c) Solicit assistance from the Office of Records Management, GSA/NARS, in defining and assessing each new and revised interagency reporting requirement. Such requests shall be made at the earliest practicable opportunity in planning for new programs and major policy revisions, and shall be made through the Interagency Reports Coordinator.

(d) Ensure that coordination is effected with responding agencies on each proposed new and revised interagency reporting requirement. Whenever the reporting requirement necessitates the development of a major information system, the requiring agency shall also plan for a pilot test of the system before its final implementation.

(e) Ensure that new interagency reporting requirements do not duplicate existing reporting systems and that all such requirements are cost effective.

(f) Review existing interagency reporting requirements for possible improvement when requesting clearance extensions.

(g) Distribute the GSA/NARS inventory of approved interagency reporting requirements to appropriate agency reporting officials, particularly Interagency Reports Coordinators.

(h) Respond expeditiously to written requests from requiring agencies for cost estimates for interagency reporting requirements.

(i) Inform the Office of Records Management, GSA/NARS, of any interagency reporting requirements received from requiring agencies that do not contain a GSA/NARS Control Number.

(j) Submit interagency reports containing a GSA/NARS Control Number to requiring agencies in accordance with the guidance in the prescribing documents.

§ 101-11.1104 GSA/NARS responsibilities.

GSA/NARS will:

(a) Review and approve, modify, or disapprove new or revised interagency reporting requirements.

(b) Maintain and distribute to Interagency Reports Coordinators a current inventory of approved interagency reporting requirements.

(c) Provide technical assistance on the management of interagency reporting requirements.

(d) Coordinate with OMB and GAO interagency reporting requirements within their respective clearance jurisdictions.

(e) Review proposed interagency reporting requirements for conformance with the provisions of all applicable laws and statutes; e.g., Freedom of Information Act (5 U.S.C. 552), Privacy Act of 1974 (5 U.S.C. 552a), and Federal Information Processing Standards (FIPS) (40 U.S.C. 759(f); 15 CFR Part 6).

(f) Report annually to the Director, OMB, on the management of interagency reporting requirements as specified in OMB Circular A-40, Revised, May 3, 1973.

(g) Ensure that the policies and operational procedures included in this subpart are maintained on a current and technically sound basis.

§ 101-11.1105 Approval procedures.

This section prescribes the procedures applicable to Federal agencies and GSA/NARS when establishing, revising, or discontinuing interagency reporting requirements.

§ 101-11.1105-1 New and revised interagency reporting requirements.

(a) The requiring agency shall discuss proposed new and revised interagency reporting requirements with GSA/NARS at the earliest possible time before submitting Standard Form 360, Request for Clearance of an Interagency Reporting Requirement (§ 101-11.4922). GSA/NARS will:

(1) Verify management need; (2) review for duplicative reporting; (3) determine potential availability of information; (4) where applicable, recommend sampling measures; and (5) assess impact on respondents. Following discussion with GSA/NARS, the requiring agency shall sample, cost, and justify the proposed requirement, and submit a Standard Form 360 and supporting justification through the Interagency Reports Coordinator to the General Services Administration (NRI), Washington, D.C. 20408.

(b) Upon receipt of the Standard Form 360, GSA/NARS will review the proposed requirement for specific demonstration of need, cost effectiveness, systems design, coordination with other clearance authorities, and ensure that the requirement does not duplicate existing reports.

(c) If the requirement is approved, GSA/NARS will assign the Interagency Report Control Number and return the approved Standard Form 360 to the Interagency Reports Coordinator of the requiring agency, and will enter the approved requirement in the GSA/NARS inventory.

(d) The requiring agency shall then promulgate the reporting requirement to the appropriate officials of responding agencies by formal directive or correspondence, a copy of which shall be forwarded through the Interagency Reports Coordinator to the General Services Administration (NRI), Washington, D.C. 20408. The document promulgating the interagency reporting requirement shall include the following information: (1) Purpose of requirement; (2) report title; (3) Interagency Report Control Number; (4) report format; (5) preparation instructions; (6) list of responding agencies; (7) frequency; (8) number of copies; (9) routing; (10) due date; and (11) whether negative reports are required. If the report requires a form for data collection, the Interagency Report Control Number shall appear on the form, preferably in the upper-right corner.

§ 101-11.1105-2 Discontinuance of interagency reporting requirements.

When an interagency report is no longer needed, the requiring agency shall issue to all responding agencies a letter, directive, or other instruction to that effect. The Interagency Reports Coordinator shall forward a copy to the General Services Administration (NRI), Washington, D.C. 20408.

§ 101-11.1105-3 Review and extension of interagency reporting requirements.

When a reporting requirement is approved, it shall be assigned an expiration date. The expiration date usually will be 3 years from the origination of the reporting requirement, but it is contingent upon the particular reporting requirement. NARS will notify agencies at least 90 calendar days before a clearance is scheduled to expire. A request for an extension beyond a scheduled expiration date shall be made on SF 360 and forwarded with a supporting justification through the Interagency Reports Coordinator to the General Services Administration (NRI), Washington, D.C. 20408 at least 60 days before the expiration date.

§ 101-11.1106 Cost-effectiveness justification.

§ 101-11.1106-1 Reporting costs.

The reporting costs of a reporting requirement are comprised of developmental costs, which are incurred by both requiring and responding agencies; operational costs, which are incurred only by responding agencies and user costs, which are incurred only by the requiring agency. The three categories of reporting costs are defined further below.

(a) Developmental costs result from those activities necessary for establishing a new reporting requirement or modifying an existing reporting requirement. Developmental costs include:

(1) Specification of reporting requirement;

(2) Analysis of reporting requirement;

(3) Design of reporting system; and

(4) Installation of reporting system.

(b) Operational costs result from those continuing activities necessary to prepare and transmit a report. Operational costs include:

(1) Data collection;

(2) All recordkeeping, data processing, typing, data assembly and other operational steps needed to produce desired output; and

(3) Data transmission.

(c) User costs result from those normal activities performed by the requiring office on the transmitted information. User costs include:

(1) Refining, interpreting, and analyzing information received; and

(2) Reading, reviewing, discussing, and documenting information presented (hard copy report, briefing session, remote terminal response).

(d) Reporting costs include resources directly applied in reporting activities (personnel, equipment, material, and other) and overhead.

§ 101-11.1106-2 Cost estimates.

Cost-effectiveness measures and evaluations, including sampling techniques shall be employed to ensure that management's need for data or information warrants the costs incurred. Such evaluations shall use a costing alternative appropriate to the degree of accuracy and specificity that is actually needed to evaluate a particular requirement. Accordingly, the following costing alternatives may be used at the discretion of the requiring agency, subject to GSA/NARS review. These alternatives shall be used in conjunction with the procedures described in the "Guide to Estimating Reporting Costs" issued by the Office of Records Management, GSA/NARS. When sampling is to be used in obtaining the estimated cost of a report, the requiring agency should contact the General Services Administration (NRI) for guidance in determining which agencies will be included in the sample. Supporting documentation and worksheets for all cost estimates shall be available for GSA/NARS review.

Alternatives	Characteristics
(a) Pilot testing (estimate based on actual costs collected).	High cost reporting—full scale mechanized systems—data banks—large number of data elements—new data collection system—respondent costs may be needed for budget purposes.
(b) Factoring (estimate based on actual costs previously collected for a comparable report).	Medium to low cost reporting—revision of a previously costed report—high degree of experience with comparable reports made by same (one or a limited number) responding agencies—cost relatively easy to compare with actual costs for a similar report.
(c) Sampling (estimate based on a representative selection of responding agencies).	Low to high cost reporting—large number of respondents—new reports.
(d) Technical estimates (estimate based on experience)....	Low cost reporting—more detailed costing has been waived by GSA—one-time reports—limited number of respondents.

§ 101-11.1106-3 Benefits.

(a) Each reporting requirement shall be justified in terms of its value to management. This value may be expressed in terms of (1) increased productivity, (2) more timely service, (3) better quality in output, or (4) reduced costs, and shall be evaluated in comparison to the developmental, operational, and user costs of a report.

(b) Evidence presented in the justification statement shall demonstrate that the value of the report outweighs its costs, and that implementation of the report is in the best interest of the Government. The justification shall be an attachment to SF 360 and shall be signed by the agency official responsible for initiating the reporting requirement.

(c) The official signing the justification statement shall:

(1) Describe specifically how the information from the proposed report will be used. Generalizations such as "for better management," "to send to Congress," or "to discharge program responsibilities" are not appropriate.

(2) Describe the benefits that are expected from use of the information. Quantify the benefits and place a dollar value on the benefits to the extent possible, and assess the probability that the benefits described will be realized.

(3) Describe the consequences that may be expected if the proposed report is not implemented.

(4) Identify responding agencies that participated in the design, pilot testing, and cost estimating of the proposed report.

(5) Identify agencies that concur and agencies that do not concur in the proposed report. Summarize the reasons cited by responding agencies for their nonconcurrences.

(6) Explain how the estimate of reporting costs shown on the SF 360 was derived. Include as an attachment, an Optional Form 101, Summary Worksheet for Estimating Reporting Costs, for the input of each agency that participated in the estimating process.

(7) Review the consideration that was given to alternative reporting plans in regard to each of the following: (i) Frequency of reporting, (ii) use of exception reporting, (iii) use of sampling techniques, (iv) selection of respondents, (v) amount of detail, and (vi) format of report.

§ 101-11.1107 Special provisions.

§ 101-11.1107-1 Exemptions.

The following interagency reporting requirements are exempted from the clearance provisions of this Subpart 101-11.11 (However, interagency reporting requirements that may be developed by an agency to respond to an exempted requirement are subject to the clearance provisions of this subpart):

(a) Legislative branch requirements in statutes or congressional committee requests;

(b) Judicial branch requirements in court orders or other judicial determinations;

(c) Presidential requirements in Presidential directives; and

(d) OMB budgetary, program review and coordination, and legislative clearance requirements.

§ 101-11.1107-2 Waivers.

If an agency cannot comply with all provisions of the justification requirements specified in § 101-11.1106, the submission of the complete cost-effectiveness justification may be waived when, in the judgment of GSA, it would be in the interest of the Government to do so. A letter explaining the need for the report and providing the reason for the waiver request shall be submitted instead of the justification statement with Standard Form 360, Request for Clearance of an Interagency Reporting Requirement. As a minimum, all waiver requests shall include a single summary cost figure in item 9, Summary of Estimated Reporting Costs (§ 101-11.1106-2(d)). This request will be responded to within 5 workdays after its receipt. If a request for waiver is denied, the justification statement shall be prepared under the procedures established in § 101-11.1106 for clearance of the reporting requirement.

§ 101-11.1107-3 Appeal procedure.

If GSA/NARS is unable to resolve differences between requiring and responding agencies concerning an interagency reporting requirement, following approval procedures specified in § 101-11.1105, a requiring or responding agency may appeal the approval decision made by GSA/NARS. The reasons for the appeal shall be stated in writing and forwarded to the General Services Administration (NRI), Washington, D.C. 20408, for transmittal to OMB with GSA's recommendation.

§ 101-11.1107-4 Federal Information Processing Standards.

Each reporting requirement shall be reviewed for conformance with applicable Federal Information Processing Standards (FIPS). FIPS are promulgated by the Department of Commerce, National Bureau of Standards, under the provisions of 40 U.S.C. 759(f); Executive Order 11717 dated May 9, 1973; and 15 CFR Part 6. FIPS that are applicable to reporting requirements are part of a Government-wide program for standardizing data elements and representations which are used and interchanged in automated Government data systems. The objective of this standardization program is to make maximum use of the data resources of the Federal Government and to avoid unnecessary duplications and incompatibilities in collecting, processing, and disseminating data. The most current FIPS publications shall be used in reviewing each reporting requirement. (Information concerning these standards and their availability may be obtained from the Office of ADP Standards Management, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234.)

(a) *Applicability.* The following types of standards as defined in FIPS publications apply to reporting requirements:

(1) Federal General and Federal Program Data Standards; and

(2) Other ADP standards for media, interchange codes, data transmission, and optical character recognition when data are to be collected and interchanged in a machine readable form.

(b) *Certification.* After review of the reporting requirement and comparison with applicable FIPS, one of the following certifications shall be entered in block 7 of SF 360, Request for Clearance of an Interagency Reporting Requirement:

(1) "The format and contents in this reporting requirement are in conformance with FIPS PUB Numbers (enter applicable numbers)."

(2) "The format and contents in this reporting requirement are not applicable to FIPS."

(3) "Approval has been obtained to deviate from the use of certain FIPS in this reporting requirement in accordance with established procedures, and a copy of this approval is attached."

§ 101-11.1107-5 Classified reporting requirements.

Security classification of an interagency reporting requirement does not exempt it from clearance provisions. Such requirements shall be discussed with GSA/NARS so that mutually acceptable clearance procedures may be established.

§ 101-11.1107-6 Interagency public reports.

(a) Statistics of general public interest. An interagency reporting requirement which requires Office of Management and Budget (OMB) approval under 44 U.S.C. 3509 (i.e., because the information to be collected is to be used for statistical compilations of general public interest) shall be submitted through the Interagency Reports Coordinator to the General Services Administration (NRI), Washington, D.C. 20408 using the SF 360, Request for Clearance of an Interagency Reporting Requirement, for approval. GSA/NARS will review the proposed requirement and will transmit a copy to OMB for its action.

(b) Collection of information from the public by responding agencies. An interagency reporting requirement which necessitates collection of information from the public by responding agencies shall be submitted by the requiring agency through the Interagency Reports Coordinator to the General Services Administration (NRI), Washington, D.C. 20408, using the SF 360 for approval. The request shall be annotated by the requiring agency to indicate that a public reports clearance request has been forwarded to OMB or GAO, as applicable, for approval. This procedure precludes generation of multiple requests for public reporting approval by various responding agencies covering the same requirement.

§ 101-11.1107-7 Interagency reporting coordination with public reports approved by OMB or GAO.

A requiring agency shall discuss with GSA/NARS any reporting requirement which includes both agency and public respondents before it submits any clearance requests. GSA/NARS will determine what clearance documentation is required in each case by OMB or GAO, as applicable, and advise the requiring agency.

§ 101-11.1107-8 Interagency reporting coordination with Standard and Optional forms approved by GSA/NARS.

As described in Subpart 101-11.8, GSA/NARS is responsible for approving Standard and Optional forms. Accordingly, when an agency plans to use new or revised Standard or Optional forms in conjunction with a proposed interagency reporting requirement, the agency shall submit an SF 152, Request for Clearance, Procurement, or Cancellation of Standard and Optional Forms, and an SF 360, Request for Clearance of an Interagency Reporting Requirement.

§ 101-11.1107-9 Department of the Treasury procedures.

The Bureau of Government Financial Operations shall provide to GSA/NARS information to permit the prompt registration of each Bureau of Government Financial Operations interagency reporting requirement relating to the central accounting and reporting of fiscal data. Other Bureau of Government Financial Operations interagency reporting requirements not related to the central accounting and reporting of fiscal data remain subject to regular GSA clearance procedures. These reports are those required by the Bureau of Government Financial Operations for internal planning or other internal management purposes.

§ 101-11.1108 Procurement of stocks of SF 360 and OF 101.

Supplies of Standard Form 360 and Optional Form 101 may be obtained by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office providing support to the requesting activity.

§ 101-11.1109 Agency compliance.

NARS conducts periodic reviews of each agency to assess its records management programs and achievements as outlined in § 101-11.103, Agency program evaluation. The Interagency Reports Management Program is included in the review of agency records management programs.

Subpart 101-11.12—Annual Report on Federal Advisory Committees

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); Pub. L. 92-463, 5 U.S.C. App. I.; and EO 11769, 39 FR 7125, Feb. 25, 1974.

SOURCE: 40 FR 48134, Oct. 14, 1975, unless otherwise noted.

§ 101-11.1200 Scope of subpart.

This subpart prescribes the procedures for preparing and submitting the Annual Report on Federal Advisory Committees.

§ 101-11.1201 Background.

(a) The Federal Advisory Committee Act (Pub. L. 92-463) requires an annual report to the Congress on Federal advisory committees in existence during the preceding calendar year. Executive Order 11769 of February 21, 1974, delegated responsibility for preparation of this report to the Administrator of General Services.

(b) Data for the annual report is coordinated with data the agencies supply to the OMB Committee Management Secretariat throughout the year and, in compliance with sec. 6(c) of the act, provides the official source of statistical information on the activities, status, and changes in the composition of Federal advisory committees. The annual report is separate from the annual comprehensive review which is conducted in accordance with OMB Circular No. A-63, Revised.

§ 101-11.1202 Definitions.

The following definitions shall apply for the purposes of this subpart.

(a) *Advisory committee.* The term "advisory committee" means any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof that is:

(1) Established by statute or reorganization plan;

(2) Established or utilized by the President; or

(3) Established or utilized by one or more agencies in the interest of obtaining advice or recommendations for the President or one or more agencies or officers of the Federal Government, except that the term excludes:

(i) The Advisory Commission on Intergovernmental Relations;

(ii) The Commission on Government Procurement; and

(iii) Any committee which is composed wholly of full-time officers or employees of the Federal Government.

(b) *Agency.* The term "agency" has the same meaning as it does in 5 U.S.C. 551(1). That is, "agency" means each authority of the United States, whether or not it is within or subject to review by another agency, but does not include:

(1) The Congress;

(2) The courts of the United States;

(3) The governments of the territories or possessions of the United States;

(4) The government of the District of Columbia; nor

(5) Exclusions set out in 5 U.S.C. 552.

(c) *Racial/ethnic composition.* This composition is not meant to denote scientific definitions of anthropological origins. The categories are:

(1) *I/A=American Indian or Alaskan Native.* A person having origins in any of the original peoples of North America.

(2) *A=Asian or Pacific Islander.* A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa.

(3) *B=Black, not of Hispanic Origin.* A person having origins in any of the black racial groups.

(4) *H=Hispanic.* A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish Culture or origin, regardless of race.

(5) *W=White, not of Hispanic Origin.* A person having origins in any of the original peoples of Europe, North Africa, the Middle East, or the Indian subcontinent.

§ 101-11.1203 Reports.

The reports prescribed by this regulation have been cleared in accordance with FPMR 101-11.11 and assigned interagency report control number

1121-GSA-AN. Agencies shall use the documents and procedures prescribed below when preparing and submitting their Annual Report on Federal Advisory Committees. Agencies that did not have advisory committees during the calendar year being reported need not submit a negative response.

(a) *Content of report.* The Annual Report on Federal Advisory Committees shall consist of the original and four copies of each of the following:

(1) Standard Form 248, Annual Report on Federal Advisory Committee, and, if applicable, Standard Form 248-A, Annual Report on Federal Advisory Committee (continuation sheet);

(2) Standard Form 249, Membership List on Federal Advisory Committee, and, if applicable, Standard Form 249-A, Membership List on Federal Advisory Committee (continuation sheet);

(3) Standard Form 250, Annual Report on Federal Advisory Committees Summary Sheet; and

(4) A letter of transmittal for the report, signed by the agency head or his designee.

(b) *Preparation of report.* The SF 248, Annual Report on Federal Advisory Committee; SF 248-A, Annual Report on Federal Advisory Committee (continuation sheet); SF 249, Membership List on Federal Advisory Committee; and SF 249-A, Membership List on Federal Advisory Committee (continuation sheet), shall be completed by the organizational element responsible for the support of the individual committee. The SF 250 and the letter of transmittal shall be completed at the department or agency level. Information for completion of SF 250 is compiled directly from data on appropriate SF 248 and SF 249. (These forms are illustrated in §§ 101-11.4930-248 through 101-11.4930-250.)

(c) *Due date.* This report is due on or before January 15 of each calendar year. Submit the report to the Office of Records Management, National Archives and Records Service (mailing address: General Services Administration (NR), Attn: Committee Management Report Coordinator, Washington, D.C. 20408).

[40 FR 48134, Oct. 14, 1975, as amended at 41 FR 48737, Nov. 5, 1976]

§ 101-11.1204 [Reserved]

§ 101-11.1205 Inquiries.

Inquiries concerning these regulations, forms, or reporting procedures should be directed to the Office of Records Management, National Archives and Records Service (mailing address: General Services Administration (NR), Attn: Committee Management Report Coordinator, Washington, D.C. 20408).

[41 FR 48737, Nov. 5, 1976]

Subpart 101-11.13—Audiovisual Records Management

SOURCE: 41 FR 14516, Apr. 6, 1976, unless otherwise noted.

§ 101-11.1300 Scope.

This subpart sets forth the policies and procedures for managing audiovisual records in the Federal Government.

§ 101-11.1301 Definitions.

(a) *Audiovisual records.* Audiovisual records include program and information motion pictures, still pictures, sound recordings, video recordings, and related documentation.

(b) *Audiovisual records management.* Audiovisual records management includes the management of audiovisual records and related records that document the creation and or acquisition of audiovisual records and that were created for or used in the retrieval of information about or from audiovisual records.

§ 101-11.1302 Objectives.

The objectives of audiovisual records management are to achieve the effective creation, maintenance, use, and disposition of audiovisual and related records by: Identifying audiovisual and related records to be created and maintained; establishing standards for maintenance and disposition of audiovisual and related records; establishing standards for the physical security and preservation of audiovisual records; and reviewing audiovisual recordkeeping practices on a continuing basis to improve procedures.

§ 101-11.1303 Agency program responsibilities.

(a) Each Federal agency, in providing for effective controls over the creation of records, shall establish an appropriate program for the management of audiovisual records. This audiovisual records management program shall:

(1) Prescribe the types of records to be created and maintained so that audiovisual operations and their products are properly documented (Guidelines describing the appropriate types of records are found in § 101-11.411-7.);

(2) Issue standards for the maintenance and disposition of audiovisual and related records;

(3) Issue standards for the physical security and preservation of audiovisual records;

(4) Review agency audiovisual recordkeeping and exploit opportunities for improvement; and

(5) Develop and maintain creation cost data for agency audiovisual records.

(b) Each agency should establish agency standards for its audiovisual operations and issue appropriate instructions. These standards should include:

(1) Identifying the various generations of audiovisual records through classification and labeling;

(2) Filing, controlling, and scheduling audiovisual and related records;

(3) Preserving the physical integrity of audiovisual records through proper use and storage conditions; and

(4) Establishing contract specifications for contractor-produced audiovisual records which protect the Government's legal title and ultimate control over all audiovisual media and related documentation.

§ 101-11.1304 Centralized audiovisual services.

(a) *National Audiovisual Center.* The National Audiovisual Center (NAC) serves as a central information source to the general public and Federal agencies concerning the availability of federally produced or sponsored audiovisual products. NAC also serves as a central distribution point for the sale, rental, and, under limited conditions, free loan of these products to the public and Federal agencies. In addition, NAC compiles and publishes Government-wide catalogs on audiovisual products available for loan, rental, and sale and develops criteria, establishes appropriate terminology, and recommends Government-wide practices for the cataloging and indexing of audiovisual materials.

(b) *Agency requirements*—(1) *Mandatory title check.* Prior to authorizing the production of any type of audiovisual product, all agencies, except as noted in OMB circular A-114, shall submit to NAC a completed Standard Form 282, Mandatory Title Check, to request information about the availability of similar products. Submit two copies of SF 282 to the National Audiovisual Center (NAC), General Services Administration, Attn: Mandatory Title Check, Washington, DC 20409.

(2) *Federal Audiovisual Production Report.* (i) Standard form 202, Federal Audiovisual Production Report, shall be prepared by each agency according to directions on the form within 30 calendar days after production of an audiovisual product is authorized or budget approval is obtained, except as noted in OMB Circular A-114. Upon completion or cancellation of the production, a new standard form 202 shall be completed and forwarded to NAC.

(ii) When it has been determined that existing Federal audiovisual products do not satisfy agency needs, a separate page shall accompany the initial standard form 202, explaining why existing products do not satisfy agency needs. The explanation must include: The subject area of the mandatory title check; the number of titles identified in the check; a narrative explanation; a statement as to whether or not commercial sources of audiovisual products were investigated; and an authorization block containing the signature, date, title, address, and phone number of the agency official responsible for audiovisual clearance and authorization.

(iii) Copies of standard form 202 may be obtained by submitting written requests to NAC (mailing address: National Audiovisual Center (NAC), General Services Administration, Washington, D.C. 20409). All requests for forms should come from the office which has been assigned responsibility for the management of audiovisual activities in each Federal agency. Upon completion, the forms shall be sent to National Audiovisual Center (NAC), General Services Administration, Attn: Cataloging Section, Washington, D.C. 20409.

(3) *Annual Audiovisual Report.* (i) Standard form 203, Annual Audiovisual Report, shall be submitted within 90 calendar days from the end of each fiscal year (FY) starting with fiscal year 1978.

(ii) Copies of standard form 203 may be obtained by submitting written requests to NAC (mailing address: National Audiovisual Center (NAC), General Services Administration, Washington, D.C. 20409). All requests for forms should come from the office which has been assigned responsibility for the management of audiovisual activities in each Federal agency. Upon completion, the forms shall be sent to National Audiovisual Center (NAC), General Services Administration, Attn: Cataloging Section, Washington, D.C. 20409.

(4) *Evaluations.* (i) All evaluations developed in accordance with attachment E of OMB Circular A-114 shall be forwarded to the National Audiovisual Center (NAC), General Services Administration, Attn: Cataloging Section, Washington, D.C. 20409. NAC will attach these evaluations to the Federal Audiovisual Production Report on file for that audiovisual product.

(ii) Products excluded from the mandatory title check and excluded from the Federal Audiovisual Production report requirements of OMB Circular A-114 need not be evaluated.

(c) *Liaison.* Each agency shall forward to NAC (mailing address: National Audiovisual Center (NAC), General Services Administration, Washington, D.C. 20409) the name, mailing address, and telephone number of the office which is assigned responsibility for management oversight of the agency's audiovisual activities. These designated offices shall serve as the liaison between NAC and Federal agencies for all matters relating to audiovisual activities, including mandatory title checks, submissions of reports and evaluations, and requests for forms.

[43 FR 33892, Aug. 1, 1978, as amended at 44 FR 60740, Oct. 22, 1979]

Subparts 101-11.14—101-11.48 [Reserved]

Subpart 101-11.49—Forms and Reports

SOURCE: 32 FR 8036, June 3, 1967, unless otherwise noted.

NOTE: Forms in §§ 101-11.4901—101-11.4918 filed as part of the original document. Copies may be obtained from Central Office, GSA.

§ 101-11.4900 Scope of subpart.

This Subpart 101-11.49 contains forms and reports used in connection with the regulations on records management prescribed in this Part 101-11.

§ 101-11.4901 Standard Form 136: Annual Summary of Records Holdings.

[41 FR 3739, Jan. 26, 1976]

§ 101-11.4902 Standard Form 115: Request for Authority to Dispose of Records.

§ 101-11.4903 Standard Form 115a: Request for Authority to Dispose of Records—Continuation Sheet.

§ 101-11.4904 Instructions for Preparing Standard Forms 115 and 115a.

§ 101-11.4905 Standard Form 137; Agency Records Center Annual Report.

§ 101-11.4906 Standard Form 127: Request for Official Personnel Folder (Separated Employee).

§ 101-11.4907 Standard Form 135: Records Transmittal and Receipt.

§ 101-11.4908 Standard Form 135a: Records Transmittal and Receipt—(Continuation).

§ 101-11.4909 [Reserved]

§ 101-11.4910 Optional Form 11: Reference Request—Federal Records Centers.

§ 101-11.4911 GSA Form 10: United States Government Memorandum.

§ 101-11.4912 Optional Form 10: United States Government Memorandum.

§ 101-11.4913 Standard Form 63: Memorandum of Call.

§ 101-11.4914 Standard Form 65; U.S. Government Messenger Envelope.

§ 101-11.4915 Optional Form 27: United States Government 2-Way Memo.

§ 101-11.4916 "Guides to Simplified Informal Correspondence".

§§ 101-11.4917- 101-11.4919 [Reserved]

§ 101-11.4920 Standard Form 152, Request for Clearance, Procurement, or Cancellation of Standard and Optional Forms.

NOTE: The form in § 101-11.4920 is filed as part of the original document and does not appear in the FEDERAL REGISTER.

[40 FR 27658, July 1, 1975]

§ 101-11.4921 Standard Form 180: Request Pertaining to Military Records.

NOTE: The form in § 101-11.4921 is filed as a part of the original document. Federal agencies may obtain copies from the nearest General Services Administration supply depot.

[33 FR 18281, Dec. 10, 1968]

§ 101-11.4922 Standard Form 360, Request for Clearance of an Interagency Reporting Requirement.

NOTE: The form illustrated in § 101-11.4922 is filed as part of the original document.

[38 FR 18017, July 6, 1973]

§ 101-11.4930-248 Standard Form 248, Annual Report on Federal Advisory Committee.

(Pub. L. 92-463, 5 U.S.C. App. I; and EO 11769)

[41 FR 48737, Nov. 5, 1976]

§ 101-11.4930-248-A Standard Form 248-A, Annual Report on Federal Advisory Committee (continuation sheet).

(Pub. L. 92-463, 5 U.S.C. App. I; and EO 11769)

[41 FR 48737, Nov. 5, 1976]

§ 101-11.4930-249 Standard Form 249, Membership List on Federal Advisory Committee.

(Pub. L. 92-463, 5 U.S.C. App. I; and EO 11769)

[41 FR 48737, Nov. 5, 1976]

§ 101-11.4390-249-A Standard Form 249-A, Membership List on Federal Advisory Committee (continuation sheet).

(Pub. L. 92-463, 5 U.S.C. App. I; and EO 11769)

[41 FR 48737, Nov. 5, 1976]

§ 101-11.4930-250 Standard Form 250, Annual Report on Federal Advisory Committees Summary Sheet.

NOTE: The forms listed in §§ 101-11.4930-248 through 101-11.4930-250 are filed as part of the original document and do not appear in the FEDERAL REGISTER.

(Pub. L. 92-463, 5 U.S.C. App. I; and EO 11769)

[41 FR 48737, Nov. 5, 1976]

§ 101-11.4930-282 Standard Form 282: Mandatory Title Check.

NOTE: The form illustrated in this § 101-11.4930-282 is filed with the original document and does not appear in this volume.

[44 FR 60740, Oct. 22, 1979]

§ 101-11.4931 Standard Form 202: Federal Audiovisual Production Report.

Interagency Reports Control No. 051-GSA-xx is assigned to this report.

[43 FR 33893, Aug. 1, 1978]

§ 101-11.4932 Standard Form 203: Annual Audiovisual Production Report.

Interagency Reports Control No. 0152-GSA-AN is assigned to this annual report.

[43 FR 33893, Aug. 1, 1978]

PART 101-12—[RESERVED]

PART 101-13—PRESERVATION OF RECORDS BY WAR CONTRACTORS

Sec.
101-13.1 Scope of regulation.
101-13.2 Responsibility of the war contractor.
101-13.3 Records not to be destroyed for stated period.
101-13.4 Partial settlements, exclusions or exceptions.
101-13.4a Exemptions.
101-13.5 Duplicate copies.
101-13.6 Authorization to destroy if photographs are retained.
101-13.7 Features which photography would not clearly reflect.
101-13.8 Arrangements, classification and self-identification of records.
101-13.9 Minimum standards for film and processing.
101-13.10 Certificate of authenticity.
101-13.11 Additional special requirements for microfilm.
101-13.12 Indexing and retention of photographs.
Exhibit A.

AUTHORITY: Sec. 1, 62 Stat. 705, as amended; 18 U.S.C. 443.

SOURCE: 18 FR 1318, Mar. 7, 1953, unless otherwise noted. Redesignated at 26 FR 11425, Dec. 2, 1961, and 29 FR 19091, Dec. 30, 1964.

§ 101-13.1 Scope of regulation.

(a) This regulation applies to:

(1) Any records of a war contractor relating to the negotiation, award, performance, payment, interim financing, cancellation or other termination, or settlement of a war contract of $25,000 or more,

(2) Any records of a war contractor and any purchaser relating to any disposition of termination inventory in which the consideration received by any war contractor or any Government agency is $5,000 or more, and

(3) Any records of a war contractor which by the war contract are required on termination to be preserved or made available.

(b) The term "war contract" which is defined in the Contract Settlement Act of 1944 as meaning either a prime contract or subcontract, has the same meaning herein. It is not limited to terminated contracts but, except where otherwise limited by the context, also includes continuing or completed contracts.

(c) As used in this part, the term "records" includes, but is not limited to, books, ledgers, checks and check stubs, payroll data, vouchers, memoranda, correspondence, inspection reports, and certificates, and cost data where involved in final payment or settlement of the contract.

§ 101-13.2 Responsibility of the war contractor.

(a) Pursuant to section 443 of the act of June 25, 1948, the war contractor shall preserve for the period of time stated below records essential to determining the performance under the war contract and to justifying the settlement thereof; any determination that certain records are not essential and need not be retained is made at the contractor's risk in accordance with the requirements of such act.

(b) Since the Contract Settlement Act defines "war contractor" as a holder of either a prime contract or a subcontract, the subcontractor has the same responsibility to preserve his individual contract records as does the prime contractor, and may dispose of such records in accordance with the provisions of this regulation without approval of the prime contractor unless required by the subcontract.

§ 101-13.3 Records not to be destroyed for stated period.

(a) Except as provided in § 101-13.4 at the conclusion of the time period stated below, final disposition of the contract records which he is required to preserve is in the discretion of the war contractor and requires no authorization from the Office of Contract Settlement or (unless required by the war contract) by the contracting agency:

(1) Five years after such disposition of termination inventory by such war contractor or Government agency, or

(2) Five years after the final payment or settlement of such war contract.

(b) Nothing in this section shall be construed:

(1) As affecting the requirements relating to records under any law other than the Contract Settlement Act of 1944, or

(2) As prohibiting the destruction of records, the destruction of which is not otherwise prohibited, or

(3) As authorizing the destruction of records where the contract is in litigation or under investigation, or

(4) As requiring the photographing of records of war contractors, or

(5) As affecting the requirements of the Comptroller General of the United States for preservation and submission of records, or

(6) As reducing the period of time for retention of records as provided for in any war contract as that term is defined in this regulation.

[18 FR 1318, Mar. 7, 1953. Redesignated at 26 FR 11425, Dec. 2, 1961, and amended at 27 FR 4739, May 18, 1962. Further redesignated at 29 FR 19091, Dec. 30, 1964]

§ 101-13.4 Partial settlements, exclusions or exceptions.

(a) The period prescribed by § 101-13.3 for retaining records commences:

(1) On the date the war contractor accepts the final payment or settlement offered by the agency which contracted with him, or

(2) Where the war contractor does not accept such payment or settlement, on the date when the period prescribed by law for appeal or other action contesting such payment or settlement expires, or

(3) Where an appeal or other action contesting such payment or settlement is filed on the date of final determination of such appeal or other action.

(b) Where the settlement is not complete, or there are exclusions or exceptions to the settlement, the records of the parts or items which are settled are eligible for destruction at the end of the period prescribed in § 101-13.3 dating from such settlement, except that all records pertaining to such exclusion or exception must be retained for the prescribed period from its date of settlement.

§ 101-13.4a Exemptions.

The provisions of this part and section 443 of the act of June 25, 1948 (62 Stat. 705; 18 U.S.C. 443) do not apply to (a) war contractor records title to which is transferred to a Government agency, (b) war contractor records that are included by Federal agencies on records disposition schedules approved by the Congress in the manner provided in the Records Disposal Act (57 Stat. 380; 44 U.S.C. 366 et seq.), or (c) war contractor records disposal of which is approved in writing by the Administrator of General Services and the Comptroller General of the United States.

[Reg. 11, Rev., Amdt. 2, 22 FR 5955, July 27, 1957. Redesignated at 26 FR 11425, Dec. 2, 1961, and 29 FR 19091, Dec. 30, 1964]

§ 101-13.5 Duplicate copies.

Duplicate or extra copies of the contract records need not be retained.

§ 101-13.6 Authorization to destroy if photographs are retained.

Subject to the provisions of § 101-13.1, any records to which this regulation applies and which can be reproduced through photography without loss of their primary usefulness may be destroyed, *Provided, however,* That clearly legible photographs thereof are made and preserved in accordance with the conditions and standards set forth in this section. Any number of copies of the record may be destroyed, provided one such photograph of the record is preserved. The terms "photograph," "photographing" and "photography" include, but are not limited to, "microphotograph," "microfilm," "microphotographing" and "microphotography."

§ 101-13.7 Features which photography would not clearly reflect.

If there is any significant characteristic, feature, or other attribute of a record which photograph would not clearly reflect, as for example that the record is a copy, or is an original, or that certain figures thereon are red, the record shall not be destroyed unless prior to being photographed it is marked so that the existence of such characteristic, feature, or other attribute is clearly reflected. When a number of the records to be microfilmed have in common any such characteristic, feature, or attribute, an appropriate notation identifying the characteristic, feature, or attribute with the records to which it applies may be placed at the beginning of the roll of film instead of on the individual records.

§ 101-13.8 Arrangements, classification and self-identification of records.

At the time of photographing, the records shall be so arranged, classified and self-identified as readily to permit the subsequent examination, location, identification and reproduction of the photographs thereof.

§ 101-13.9 Minimum standards for film and processing.

The minimum standards for film and processing used in the production of photographs shall be those set forth in the "Standards for Temporary Record Photographic Microcopying Film" issued by the National Bureau of Standards under date of October 25, 1943, and set forth below as Exhibit A.

§ 101-13.10 Certificate of authenticity.

The photographs shall have attached thereto a certificate or certificates that the photographs are accurate and complete reproductions of the records submitted by the war contractor or purchaser and that they have been made in accordance with the standards and requirements set forth in this regulation. Such certificate or certificates shall be executed by a person or persons having personal knowledge of the facts covered thereby.

§ 101-13.11 Additional special requirements for microfilm.

In the case of microphotographs, a microfilm of such certificate or certificates shall be photographed on each roll of film. The photographic matter on each roll shall commence and end with a frame stating the nature and arrangement of the records reproduced, the name of the photographer and the date. Rolls of film shall not be cut. Supplemental or retaken film whether of misplaced or omitted documents or of portions of a film found to be spoiled or illegible or of other matter, shall be attached to the beginning of the roll, and in such event the certificate or certificates referred to in § 101-13.10 shall cover also such supplemental or retaken film and shall state the reasons for taking such film.

§ 101-13.12 Indexing and retention of photographs.

The photographs shall be indexed and retained in such manner as will render them readily accessible and identifiable and will reasonably insure their preservation against loss by fire or other means of foreseeable destruction. They shall be retained for the period of time during which, except for this regulation, the destruction of the original records would have been prohibited.

EXHIBIT A

STANDARD FOR TEMPORARY RECORD PHOTOGRAPHIC MICROCOPYING FILM

(Gelatin-Silver Halide Emulsion Type)

The exposed and processed film shall be of such a type that no serious loss in the quality of the image shall result within five years after processing when the film is kept under ordinary storage conditions. All film shall be of 16 mm or 35 mm size either perforated or unperforated as specified.

DETAILED REQUIREMENTS

Film base. The film base shall be the slow burning cellulose-acetate type known as "safety" film. The thickness of the film base and emulsion shall be 0.0055±0.0010 inch.

Emulsion. The emulsion or light sensitive coating shall be composed of silver-halide crystals of a size distribution entirely suitable for microcopying use, uniformly dispersed in a thin layer of high grade gelatin on one side of the film base. The whitelight and spectral sensitivities shall be such that accurate and complete copies of the documents are obtained with the usual exposure and development technique.

Processing. The film shall be developed with the usual organic developing agents such as "Metol," hydroquinone, gycin, etc., compounded to produce a silver image essentially black. Developers producing stained or colored images are not to be used. The films shall be fixed in the usual sodium thiosulphate fixing bath. Fixing baths containing ammonium thiosulphate shall not be used. No intensification or reduction of the developed image is permitted.

Hypo content of emulsion. The hypo (sodium thiosulphate) content of the processed film shall not exceed 0.02 mg per square inch of film. The hypo content shall be determined by the method of Crabtree and Ross in the Journal of the Society of Motion Picture Engineers, Vol. 14, p. 419 (1930).[1] One square inch of film (1⅝" of 16 mm film or ¾" of 35 mm film) is immersed in a shell vial ¾ × 4" containing 10 ml of the following solutions:

Potassium bromide	25 grams.
Mercuric chloride	25 grams.
Water to make	1 liter.

After the sample has remained in the above solution for 15 minutes the turbidity is compared with that of three similar shell vials containing the above solution, one with no hypo, one with 0.02 mg, and one with 0.03 mg hypo (Na_2S_2O). The comparison is made in a darkened room using a mercury lamp for illumination. The shell vials should rest on a black surface, the light entering from one side of the vials. The criterion is that the turbidity of the tested solution should not exceed that of the one having 0.02 mg. of hypo.

Flexibility. Flexibility is determined by means of a Pfund folding endurance tester used as described by Weber and Hill, National Bureau of Standards Miscellaneous Publication M158, obtainable from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, price 5 cents.

Processed film, conditioned at 65% relative humidity, shall stand at least 16 single folds in the Pfund tester (19 mm between jaws) without breaking. Film aged 72 hours at 100°C and conditioned at 65% relative humidity shall not lose more than 25% in folding endurance of the original sample.

Burning time test. A sample 16 inches long shall be cut from the 16 mm or 35 mm film to be tested. All gelatin layers shall be removed by washing in warm water or treatment with an enzyme such as pancreatin. After drying for at least 24 hours, the sample shall be marked 2 inches from each end and perforated with holes approximately 0.12 inch in diameter along one edge at intervals of about 1¼ inches, if sample is not already perforated. A wire having a diameter of not more than 0.020 inch shall be threaded through the perforations on one side at points approximately 1¼ inches apart.

The wire holding the dried sample is stretched horizontally between two supports permitting the sample to hang vertically from it. The bottom corner of one end of the sample is ignited. The time which elapses from the moment the flame reaches the first mark until the flame reaches the second mark shall be recorded as the burning time. If the sample does not ignite or if it does not completely burn, the burning time is recorded as infinite. The test shall be made in a room free from draughts. At least three tests shall be made. The burning time shall not be less than 45 seconds.

APPENDIX TO SUBCHAPTER B—TEMPORARY REGULATIONS

[EDITORIAL NOTE: The following is a list of temporary regulations except delegations of authority, which relate to Federal property management and are in effect as of the revision date of this volume]

FPMR Temporary Regulations	Subject	Expires	FR Publication
B-5[1]	Conversion of Federal Government stationary from 8 by 10.5 inches to 8.5 by 11 inches.	July 15, 1982	44 FR 56699, Oct. 2, 1979.
B-5, Supplement 1[1]	do	do	45 FR 51201, Aug. 1, 1980.

[1] These temporary regulations appear in full text below.

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[1] In this article (p. 426) the sensitivity of the mercuric chloride test is given as 0.05 mg of hypo without stating the volume of solution or area or length of film. This value is obviously for 1 foot of film since with ordinary care 0.005 mg per frame of 35 mm film (1 square inch) is detectable.

[FPMR Temp. Reg. B-5]

CONVERSION OF FEDERAL GOVERNMENT STATIONERY FROM 8 BY 10.5 INCHES TO 8.5 BY 11 INCHES.

1. *Purpose.* This temporary regulation authorizes agencies to use both 8- by 10.5-inch and 8.5- by 11-inch stationery; directs agencies to use certain procedures in converting to 8.5- by 11-inch stationery; and prohibits agencies from printing or procuring the printing of any 8- by 10.5-inch stationery after December 31, 1979.

2. *Effective date.* This regulation is effective upon publication in the FEDERAL REGISTER.

3. *Expiration date.* This regulation expires on July 15, 1980.

4. *Background.* in December 1978, the Congressional Joint Committee on Printing authorized the 8.5- by 11-inch size as the Government stationery standard. That action directly affects all office stationery stocks, including letterhead, bond second sheets, manifold tissue sets, and carbon paper. In addition, the National Archives and Records Service (NARS) has developed conversion procedures for correspondence, mail, directives, forms, copy, and word processing management practices. (See attachment A.)

5. *Conversion phase.* Until January 1, 1980, all Federal agencies are granted a waiver from the 8- by 10.5-inch, 8- by 7-inch, and 8- by 5.5-inch size requirements prescribed in the existing § 101-11.603.2, provided that: (a) All reasonable, orderly, and economical means are used to deplete existing Federal stocks of 8-inch wide stationery and related paper items, and (b) only 8.5- by 11-inch, 8.5- by 7.33-inch, or 8.5- by 5.5-inch stationery stocks are used to replace depleted stocks. The Federal Supply Service may substitute the old size for agency orders of stationery and related paper items until inventories are depleted.

6. *Waiver requests.* After December 31, 1979, agencies are prohibited from printing or procuring the printing of 8- by 10.5-inch stationery or its multiple sizes, unless approved in writing by NARS. Agencies' waiver requests shall be addressed to: General Services Administration (NR), Washington, DC 20408.

7. *Effect on other issuances.* This regulation modifies § 101-11.603-2 (stationery) and § 101-11.209-4(a)(1) (directives) by allowing the use of both stationery sizes until 8-inch wide stationery stocks are depleted.

8. *Conversion procedures.* Attachment A prescribes conversion procedures that agencies must follow to ensure a reasonable, orderly, and economic transition. An agency, however, may take additional actions to achieve an economic and orderly conversion.

Dated: September 21, 1979

R. G. Freeman III,
Administrator of General Services.

Conversion Procedures

1. *Correspondence management practices.*

a. Use all existing stocks of 8- by 10.5-inch stationery including letterhead, plain bond papers, manifold carbon tissue sets, and carbon paper.

b. Do not redistribute 8-inch-wide stationery stock if redistribution costs exceed the purchase-and-distribution costs for new 8.5-inch-wide stock.

c. In preparing correspondence, intermix stationery sizes if that is the only method that will deplete 8- by 10.5-inch stock. However, when using 8.5- by 11-inch bond papers with 8- by 10.5-inch carbon sets, use at least .75-inch side margins.

d. When printing or procuring 8.5- by 7.33-inch stationery, the 7.33-inch length should not vary more than .05 inches.

2. *Mail management practices* Ensure that the size of self-addressed, return envelopes can accommodate the size of the document(s) to be returned.

3. *Directives management practices.* When issuing a page change for a directives system using lettersize paper, consider the following:

a. If the revisions involve changing 50 percent or more pages, issue the entire directive in an 8.5- by 11-inch format;

b. If there is less than 50 percent revision, allow a single directive to stay intermixed; and

c. If a directive of four or fewer sheets is revised, reprint the entire directive on 8.5- by 11-inch paper.

4. *Forms management practices.*

a. Consider using 8.5- by 11-inch paper for new or revised forms that are commonly interfiled with correspondence. However, use existing stocks of 8- by 10.5-inch forms before converting.

b. All other form sizes should be determined according to the use of the individual form.

5. *Copy management practices.*

a. Consider using 8.5- by 11-inch copy stock instead of 8- by 10.5-inch stock.

b. When copying an entire document containing both 8- by 10.5-inch and 8.5- by 11-inch paper, use the 8.5- by 11-inch size.

6. *Word processing practices.* For 8-inch-wide paper, some word processors have a preset margin that limits line length to 6 inches. Readjust the preset margin to extend line length to 6.5 inches for use with 8.5- by 11-inch paper.

[44 FR 56699, Oct. 2, 1979]

[FPMR TEMP. REG. B-5, SUPP. 1]

CONVERSION OF FEDERAL GOVERNMENT STATIONERY FROM 8 BY 10.5 INCHES TO 8.5 BY 11 INCHES

1. *Purpose.* This supplement extends the expiration date of FPMR Temporary Regulation B-5.

2. *Effective date.* This regulation is effective upon publication in the FEDERAL REGISTER.

3. *Expiration date.* This supplement expires on July 15, 1982.

4. *Explanation of changes.* The expiration date in paragraph 3 of FPMR Temporary Regulation B-5 is revised to July 15, 1982.

[45 FR 51201, Aug. 1, 1980]

SUBCHAPTER C—DEFENSE MATERIALS

PART 101-14—NATIONAL DEFENSE STOCKPILE

Sec.
101-14.000 Scope of part.
101-14.001 Definitions.
101-14.001-1 Acquisition.
101-14.001-2 Agency.
101-14.001-3 Barter.
101-14.001-4 Direct Government use.
101-14.001-5 Excess to agency needs.
101-14.001-6 Excess to stockpile requirements.
101-14.001-7 Exchange.
101-14.001-8 Holding agency.
101-14.001-9 Indirect Government use.
101-14.001-10 National Defense Stockpile.
101-14.001-11 Purchase.
101-14.001-12 Rotation.
101-14.001-13 Strategic and critical materials.

Subpart 101-14.1—Transfer of Strategic and Critical Materials Excess to Agency Needs to the National Defense Stockpile

101-14.100 Scope of subpart.
101-14.101 Purpose and authority.
101-14.102 [Reserved]
101-14.103 Reports of excess to GSA.
101-14.103-1 General requirements of reporting.
101-14.103-2 Less than minimum specified quantities.
101-14.103-3 Contractor inventory.
101-14.103-4 Industrial needs.
101-14.104 Transfers to the stockpile.
101-14.104-1 General.
101-14.104-2 Unsuitable items.
101-14.104-3 Withdrawals.
101-14.104-4 Reimbursements.
101-14.105 Materials not transferred to the National Defense Stockpile.
101-14.106 List of strategic and critical materials to be reported to GSA.

Subpart 101-14.2—Transfer of Strategic and Critical Materials Excess to Stockpile Requirements for Government Use

101-14.200 Scope of subpart.
101-14.201 Purpose and authority.
101-14.202 [Reserved]
101-14.203 Materials available.
101-14.204 Reimbursement.
101-14.205 Requests for transfers.

Subpart 101-14.3—Acquisition of Strategic and Critical Materials for the National Defense Stockpile

101-14.300 Scope of subpart.
101-14.301 Purpose and authority.
101-14.302 Competitive procedures.
101-14.303 Disruption of markets.
101-14.304 Length of contracts.

Sec.
101-14.305 Acquisition of strategic and critical materials by purchase.
101-14.306 Acquisition of strategic and critical materials by exchange.
101-14.307 Acquisition of strategic and critical materials by barter.
101-14.308 Acquisition of strategic and critical materials for rotation purposes.

AUTHORITY: Sec. 4, 93 Stat. 320, 50 U.S.C. 98c; Sec. 6, 93 Stat. 321, 50 U.S.C. 98e; Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); Sec. 704, 64 Stat. 816, as amended 50 U.S.C. App. 2154; E.O. 10480, August 18, 1953, 18 FR 4939, as amended; E.O. 12155, September 10, 1979, 44 FR 53071; DMO 11, April 17, 1973, 38 FR 9507.

SOURCE: 46 FR 21602, Apr. 1, 1981, unless otherwise noted.

§ 101-14.000 Scope of part.

This part deals with strategic and critical and other raw and basic materials required for the National Defense Stockpile, and materials which are excess to the requirements for the National Defense Stockpile.

§ 101-14.001 Definitions.

As used in this part, terms shall have the meanings described in this section.

§ 101-14.001-1 Acquisition.

"Acquisition" means the process of obtaining strategic and critical materials for the National Defense Stockpile by purchase, exchange, or barter.

§ 101-14.001-2 Agency.

"Agency" means any agency of the United States, including any executive department or independent establishment in the executive branch of the Government and any wholly owned Government corporation.

§ 101-14.001-3 Barter.

"Barter" means the acquisition of materials for the National Defense Stockpile by trading Government-owned property for strategic and critical materials.

§ 101-14.001-4 Direct Government use.

"Direct Government use" means use in a Government-owned and Government-operated facility and use in a Government-owned facility which is operated by a contractor for the Government.

§ 101-14.001-5 Excess to agency needs.

"Excess to agency needs" means strategic and critical materials which are (a) under the control of an agency and (b) not required for its needs and discharge of its responsibilities, as determined by the head of the agency.

§ 101-14.001-6 Excess to stockpile requirements.

"Excess to stockpile requirements" means strategic and critical materials (a) which are in excess of stockpile needs and (b) the disposition of which is authorized by law.

§ 101-14.001-7 Exchange.

"Exchange" means the acquisition of strategic and critical materials for the National Defense Stockpile by using as payment stockpile materials, the disposition of which is authorized by law.

§ 101-14.001-8 Holding agency.

"Holding agency" means any agency having the control of strategic and critical materials.

§ 101-14.001-9 Indirect Government use.

"Indirect Government use" means use by prime contractors and all tiers of subcontractors in the production of items being procured by the Government.

§ 101-14.001-10 National Defense Stockpile.

"National Defense Stockpile" means the materials listed in section 4 of the Strategic and Critical Materials Stock Piling Act, as amended (50 U.S.C. 98c).

§ 101-14.001-11 Purchase.

"Purchase" means the acquisition of strategic and critical materials for the National Defense Stockpile through payments of funds available for that purpose.

§ 101-14.001-12 Rotation.

"Rotation" means the process of replacing materials in the National Defense Stockpile with an equivalent quantity of substantially the same materials to prevent deterioration.

§ 101-14.001-13 Strategic and critical materials.

"Strategic and critical materials" means materials which the National Security Council (NSC) determines (a) would be needed to supply the military, industrial, and essential civilian needs of the United States during a national emergency, and (b) are not found or produced in the United States in sufficient quantities to meet these needs.

Subpart 101-14.1—Transfer of Strategic and Critical Materials Excess to Agency Needs to the National Defense Stockpile

§ 101-14.100 Scope of subpart.

This subpart deals with the transfer of strategic and critical materials excess to agency needs, to the National Defense Stockpile.

§ 101-14.101 Purpose and authority.

This subpart sets forth the policy and procedures for transferring to the National Defense Stockpile strategic and critical materials excess to the needs of the holding agency, under section 3h of Defense Mobilization Order 11 (32A CFR Part 111). GSA reviews agencies' excess holdings of these materials as a potential source to satisfy unfulfilled National Defense Stockpile goals.

§ 101-14.102 [Reserved]

§ 101-14.103 Reports of excess to GSA.

§ 101-14.103-1 General requirements of reporting.

Except as hereinafter provided, strategic and critical materials listed in the GSA bulletin entitled "Excess Strategic and Critical Materials required for the National Defense Stockpile" (see § 101-14.106) shall be reported, when determined to be excess by the holding agency, to the General Services Administration (DM), Washington, DC 20406. (Interagency report control number 0120-GSA-AR has been assigned to this report.) GSA will determine whether the materials shall be transferred to the National Defense Stockpile.

(a) Upon determination that these materials are excess, the holding agency shall report the location, quantity, and description of the materials by letter to GSA. The letter shall contain sufficient details to indicate the nature of each strategic and critical material, including chemical or other composition, specification, size, and other pertinent data. When available, complete purchase specifications or material content analyses shall also be included.

(b) GSA will review the information provided by the holding agency. When it is determined that the materials conform or appear to conform to stockpile requirements and are needed to satisfy unfulfilled stockpile goals, GSA will furnish the holding agency with instructions for transferring the materials to an appropriate stockpile site or, if necessary, for submitting additional information for further review. (See § 101-14.105 for reported materials not accepted for transfer to the National Defense Stockpile.)

§ 101-14.103-2 Less than minimum specified quantities.

Each holding agency having strategic and critical materials excess to its needs at any one location in lots of less than the minimum quantities specified in the GSA bulletin entitled "Excess Strategic and Critical Materials required for the National Defense Stockpile" (see § 101-14.106) shall retain these materials until the specified minimum is accumulated. After accumulation of the minimum, the holding agency shall report the materials to GSA as required in § 101-14.103-1. If the holding agency determines that there is no reasonable prospect of accumulating the minimum quantity within 12 months after the material is determined to be excess, the material shall not be reported as prescribed in § 101-14.103, but shall be handled as excess in accordance with the applicable provisions of Part 101-43.

§ 101-14.103-3 Contractor inventory.

The requirements of this Subpart 101-14.1 shall not be applicable to strategic and critical materials which are contractor inventory if the holding agency has not taken possession of the inventory.

§ 101-14.103-4 Industrial needs.

The requirements of this Subpart 101-14.1 shall not be applicable to strategic and critical materials which are necessary to make up any deficiency of the supply of these materials for the current needs of industry as determined by the Secretary of Commerce.

§ 101-14.104 Transfers to the stockpile.

§ 101-14.104-1 General.

Strategic and critical materials reported under this Subpart 101-14.1 shall be transferred to the National Defense Stockpile following notification by GSA to the holding agency that these materials are acceptable and needed for the stockpile.

§ 101-14.104-2 Unsuitable items.

If excess strategic and critical materials reported under this Subpart 101-14.1 are unsuitable for stockpiling or cannot economically be converted to meet stockpile specifications, GSA will so advise the holding agency, and these materials shall not thereafter be subject to this Subpart 101-14.1.

§ 101-14.104-3 Withdrawals.

Subject to the prior approval of GSA, holding agencies may withdraw materials reported under this Subpart 101-14.1, provided that these materials have not been already transferred to the National Defense Stockpile.

§ 101-14.104-4 Reimbursements.

Unless the holding agency elects to bear these expenses, all expenses of preparation for shipment, all shipping and conversion expenses, and all expenses after the date of shipment (including transportation, maintenance, and storage), which are incident to the transfer of strategic materials to the National Defense Stockpile, under this subpart may be paid from funds appropriated under the Strategic and

Critical Materials Stock Piling Act (50 U.S.C. 98). Otherwise, transfers of strategic and critical materials excess to agency needs to the National Defense Stockpile shall be made without reimbursement or transfer of funds.

§ 101-14.105 Materials not transferred to the National Defense Stockpile.

Excess strategic and critical materials in the following categories shall be handled in accordance with the applicable provisions of Part 101-43:

(a) Materials which were reported under this Subpart 101-14.1 but were not accepted for transfer to the National Defense Stockpile. (See also § 101-43.311-1 for required annotation of documents.)

(b) Materials which are not required to be reported under this Subpart 101-14.1.

§ 101-14.106 List of strategic and critical materials to be reported to GSA.

The Commissioner, Federal Property Resources Service, will periodically issue to Federal agencies a revised GSA bulletin entitled "Excess strategic and critical materials required for the National Defense Stockpile," which lists the materials and the quantities to be reported under the provisions of this Subpart 101-14.1. Additional copies of the bulletin may be obtained upon written request to the General Services Administration (DM), Washington, DC 20406.

Subpart 101-14.2—Transfer of Strategic and Critical Materials Excess to Stockpile Requirements for Government Use

§ 101-14.200 Scope of subpart.

This subpart concerns the transfer of strategic and critical materials excess to stockpile requirements for direct and indirect Government use.

§ 101-14.201 Purpose and authority.

This subpart sets forth the policy and procedures for transferring strategic and critical materials excess to stockpile requirements to agencies for direct or indirect use. As prescribed in section 30 of Defense Mobilization Order 11 (32A CFR Part 111), agencies which directly or indirectly use strategic and critical materials shall obtain their requirements for these materials from inventories of materials excess to stockpile requirements when feasible.

§ 101-14.202 [Reserved]

§ 101-14.203 Materials available.

(a) The Commissioner, Federal Property Resources Services, will periodically issue to Federal agencies a GSA bulletin entitled "Transfer of excess strategic and critical materials from GSA inventories," which lists excess materials available for transfer to agencies under the provisions of this Subpart 101-14.2. The bulletin will be revised as materials excess to stockpile requirements become available or as available supplies of such materials become exhausted. Additional copies of the bulletin may be obtained upon written request to the General Services Administration (DM), Washington, DC 20406.

(b) All of the materials will be available at storage depots in the continental United States.

(c) GSA reserves the right to fix the minimum quantity that may be released on a single order.

§ 101-14.204 Reimbursement.

Reimbursement to the General Services Administration for the materials transferred pursuant to this Subpart 101-14.2 will be at the price established by GSA. Consideration will be given to quantity, quality, and other relevant factors.

§ 101-14.205 Requests for transfers.

Federal agencies shall review the GSA bulletin entitled "Transfer of excess strategic and critical materials from GSA inventories" (see § 101-14.203(a)) and promptly inform GSA of their requirements for any of the materials listed therein. Requests for information concerning transfer of any strategic and critical materials excess to stockpile requirements from GSA inventories should be directed to the General Services Administration (DS), Washington, DC 20406.

Subpart 101-14.3—Acquisition of Strategic and Critical Materials for the National Defense Stockpile

§ 101-14.300 Scope of subpart.

This subpart deals with the acquisition of strategic and critical materials for the National Defense Stockpile.

§ 101-14.301 Purpose and authority.

This subpart sets forth policy and procedures for the acquisition of strategic and critical materials for the National Defense Stockpile, in accordance with section 6 of the Strategic and Critical Materials Stock Piling Act, as amended (50 U.S.C. 98e).

§ 101-14.302 Competitive procedures.

(a) Competitive procedures shall be used to the greatest extent feasible in the acquisition of strategic and critical materials. For the purpose of this subpart, competitive procedures means the solicitation of bids or offers from two or more potential suppliers of strategic and critical materials.

(b) Whenever the Commissioner, Federal Property Resources Service, determines that competitive procedures are not feasible in an acquisition, the Commissioner must notify the Committees on Armed Service of the Senate and House of Representatives in writing of the proposed acquisition at least 30 days before any obligation of the United States is incurred regarding this acquisition. The Commissioner will include in this notification the reason that competitive procedures are not feasible.

§ 101-14.303 Disruption of markets.

Efforts shall be made in the acquisition of strategic and critical materials to avoid undue disruption of the usual markets of producers, processors, and consumers of such materials and to protect the United States against avoidable loss.

§ 101-14.304 Length of contracts.

Contracts entered into under this Subpart 101-14.3 shall not be for a period of more than 2 years. However, contracts for a period of more than 2 years may be entered into, if determined to be in the best interests of the Government and approved by the Commissioner, Federal Property Resources Service (D).

§ 101-14.305 Acquisition of strategic and critical materials by purchase.

GSA will contract for the purchase of strategic and critical materials. The purchase of these materials shall be in accordance with established Federal procurement practices as set forth in the Federal Procurement Regulations (41 CFR Chapter 1) and the General Services Administration Procurement Regulations (41 CFR Chapters 5 and 5A). Deviations from the Federal Procurement Regulations or General Services Administration Procurement Regulations shall be in accordance with 41 CFR 1-1.009 and § 5A-1.109. However, any deviation to those regulations which modifies or eliminates competitive procedures must be approved as specified in § 101-14.302(b).

§ 101-14.306 Acquisition of strategic and critical materials by exchange.

(a) GSA may transfer at fair market value the materials listed in paragraph (b) of this section as payment for expenses for acquisition of strategic and critical materials. Expenses which may be paid for by exchange include transportation and other incidental expenses.

(b) The following materials may be exchanged under this section: (1) Subject to the notification requirements of paragraph (c) of this section, materials which are (i) excess to stockpile requirements; and (ii) may cause a loss if left to deteriorate; and (2) materials in the stockpile the disposal of which is specifically authorized by law.

(c) Materials listed in paragraph (b)(1) of this section may be used for acquisitions of strategic and critical materials by exchange only if the Committees on the Armed Services of the Senate and House of Representatives are notified in writing of the proposed disposal at least 30 days before any obligation by the United States is incurred in connection with this disposal.

§ 101-14.307 Acquisition of strategic and critical materials by barter.

(a) Federal agencies are encouraged to use barter in the acquisition of strategic and critical materials when the acquisition is authorized by law (see paragraph (b) of this section), is practical, and is in the best interests of the United States.

(b) The Strategic and Critical Materials Stock Piling Act does not specifically authorize acquisition by barter. To barter for strategic and critical materials, an agency must have specific authority to enter into barter agreements or arrangements. For example, section 204(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 485(f)), authorizes executive agencies entitled to receive cash under any contract covering the lease, sale, or other disposition of surplus property to accept instead of cash strategic and critical materials at the prevailing market price when the payments are due.

§ 101-14.308 Acquisition of strategic and critical materials for rotation purposes.

GSA may provide for the rotation of any material in the stockpile when necessary to prevent deterioration of the material by replacing it with an equivalent quantity of substantially the same material. Materials may be acquired for rotation purposes by purchase (see § 101-14.305), exchange (see § 101-14.306), or barter (see § 101-14.307).

PART 101-15—[RESERVED]

SUBCHAPTER D—PUBLIC BUILDINGS AND SPACE

PART 101-16—[RESERVED]

PART 101-17—ASSIGNMENT AND UTILIZATION OF SPACE

Sec.
101-17.000 Scope of part.
101-17.001 Authority.
101-17.002 Basic policy.
101-17.003 Definition of terms.
101-17.003-1 Space assignment.
101-17.003-2 General purpose space.
101-17.003-2a Types of general purpose space.
101-17.003-3 Special purpose space.
101-17.003-4 Government-owned space.
101-17.003-5 Leased space.
101-17.003-6 Permit space.
101-17.003-7 Occupancy guides.
101-17.003-8 Private office.
101-17.003-9 Semiprivate office.
101-17.003-10 Open office area.
101-17.003-11 Work station.
101-17.003-12 Administrative support space.
101-17.003-13 Joint use space.
101-17.003-14—101-17.003-15 [Reserved]
101-17.003-16 Inside parking space.
101-17.003-17 Outside parking space.
101-17.003-18 Space planning.
101-17.003-19 Space layout.
101-17.003-20 Space utilization.
101-17.003-21 Space inspection.
101-17.003-22 Space utilization survey.
101-17.003-23 Federal agency.
101-17.003-24 Executive agency.
101-17.003-25 Non-Federal organizations.
101-17.003-26 Gross area.
101-17.003-27 Occupiable area.
101-17.003-28 Building support area.
101-17.003-29 Government-controlled space.
101-17.003-30 Circulation factor.
101-17.003-31 Layout factor.
101-17.003-32 Space allocation standards.
101-17.003-33 Urban area.
101-17.003-34 Central business areas.
101-17.003-35 Central city.
101-17.003-36 Rural area.

Subpart 101-17.1—Assignment of Space

101-17.100 Scope of subpart.
101-17.101 Requests for space.
101-17.101-1 Form of request.
101-17.101-1a Type of request.
101-17.101-1b Certification of request.
101-17.101-2 Exceptions to submitting requests for space.
101-17.101-3 Action when space is not available.
Sec.
101-17.101-4 Short-term use of conference and meeting facilities.
101-17.101-5 Space requirements for ADP equipment.
101-17.101-6 Procurement of parking for Government-owned vehicles.
101-17.102 Procedures for assigning space.
101-17.102-1 Assignment by GSA.
101-17.102-2 Assignment by agencies.
101-17.103 Application of socioeconomic considerations.
101-17.104 Reviews and appeals of space assignment actions
101-17.104—1 Informal review.
101-17.104—2 Formal review.
101-17.104—3 Initial appeal.
101-17.104—4 Further appeals.

Subpart 101-17.2—Utilization of Space

101-17.200 Scope of subpart.
101-17.201 Responsibility of GSA.
101-17.201-1 Conduct of space inspections.
101-17.201-2 Conduct of space utilization surveys.
101-17.202 Responsibility of agencies.
101-17.203 Release of space not fully utilized.
101-17.204 Notice to GSA of relinquishment of assigned space.

Subpart 101-17.3—Space Standards, Criteria, and Guidelines

101-17.300 Scope of subpart.
101-17.301 Space allowances.
101-17.302 Use of occupancy guides.
101-17.303 Use of space allocation allowances.
101-17.304 Office space allowances.
101-17.304-1 Work station space allowances for general schedule personnel.
101-17.304-2 Administrative support space allowances.
101-17.305 Storage space allowances.
101-17.306 Special space allowances.
101-17.307 Private office space allowances.
101-17.308 Supplemental space standards for Government executives.
101-17.308-1 Standards for executive schedule personnel.
101-17.308-2 Supplemental standards for supergrade personnel.

Subpart 101-17.4—Space Planning and Layout

101-17.400 Scope of subpart.
101-17.401 Space planning assistance.
101-17.402 Use of contractual services for space planning.

Subpart 101-17.5—Providing Space in New Public Buildings

Sec.
101-17.500 Scope of subpart.
101-17.501 General.
101-17.502 Responsibility of GSA.
101-17.503 Responsibility of agencies.
101-17.504 Postoccupancy evaluation.

Subparts 101-17.6—101-17.46 [Reserved]

Subpart 101-17.47—Exhibits

101-17.4700 Scope of subpart.
101-17.4701 Memorandum of understanding between the U.S. Department of Agriculture and the General Services Administration concerning the location of Federal facilities.
101.4702 Memorandum of agreement between the General Services Administration and the U.S. Postal Service for implementing the President's urban policy.

Subpart 101-17.48—GSA Regional Offices

101-17.4800 Scope of subpart.
101-17.4801 GSA regional offices.

Subpart 101-17.49—Forms

101-17.4900 Scope of subpart.
101-17.4901 Standard forms.
101-17.4901-81 Standard Form 81, Request for Space.
101-17.4902 GSA forms.
101-17.4902-144 GSA Form 144, Space Requirements.

AUTHORITY: 63 Stat. 377, as amended (40 U.S.C. 285, 304c, 601 et seq., 490 note); E.O. 11512, 35 FR 3979, unless otherwise noted.

SOURCE: 39 FR 23196, June 27, 1974, unless otherwise noted.

§ 101-17.000 Scope of part.

This part prescribes the policies and procedures relative to the assignment and utilization of space in Government-owned and -leased buildings, or portions thereof, in the United States. The term "United States," as used in this subchapter, shall mean the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

§ 101-17.001 Authority.

This part implements the applicable provisions of the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended; the Act of July 1, 1898 (40 U.S.C. 285); the Act of August 27, 1935 (40 U.S.C. 304c); the Public Buildings Act of 1959, as amended (40 U.S.C. 601 et seq.); the Rural Development Act of 1972 (86 Stat. 674); Reorganization Plan No. 18 of 1950 (40 U.S.C. 490 note); the Public Buildings Cooperative Use Act of 1976 (90 Stat. 2507); Executive Order 12072 of August 16, 1978 (43 FR 36869); the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 531-535); Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601); and the National Environmental Policy Act of 1969, as amended.

[45 FR 37200, June 2, 1980]

§ 101-17.002 Basic policy.

GSA will acquire and use federally owned and leased office buildings and space located in the United States and will issue standards and criteria for the use of this space. GSA will assign and reassign this space to Federal agencies and certain non-Federal organizations. GSA has oversight responsibility for Federal agency compliance with Executive Order 12072, including space acquisition in urban areas accomplished under authority other than the Federal Property and Administrative Services Act of 1949, as amended. As required by section 901(b) of the Agriculture Act of 1970, 84 Stat. 1383, as amended by section 601 of the Rural Development Act of 1972, 86 Stat. 674 (42 U.S.C. 1322(b)), it is the responsibility of each agency to determine which of its new offices should be located in rural areas. When it is determined that agency space needs require an urban location, GSA and other Federal agencies shall be governed by the following policies for the assignment, reassignment, and use of buildings and space.

(a) Federal facilities and Federal use of space in urban areas shall serve to strengthen the Nation's cities and to make them attractive places to live and work. Federal space shall conserve existing urban resources and encourage the development and redevelopment of cities.

(b) Serious consideration shall be given to the impact that a location or relocation will have on improving the social, economic, environmental, and cultural conditions of the communities in an urban area. To the extent feasible, plans and programs for meeting space needs shall enhance and support the development, redevelopment, and revitalization objectives and priorities of cities in urban areas and shall enhance and support the employment and economic base of these cities. Both positive and negative impacts of space acquisition actions shall be weighed with the objective of obtaining maxmum socioeconomic benefits from these actions.

(c) In meeting space needs in urban areas:

(1) First consideration shall be given to a centralized business area and adjacent areas of similar character in the central city of Standard Metropolitan Statistical Areas (SMSA) defined by the Department of Commerce publication (Government Printing Office Stock Number 041-001-00101-8), including other specific areas of a city recommended by the elected chief executive officer of the local government or a designee, except where this type of consideration is otherwise prohibited. Space needs will be met outside the central business area of a central city of an SMSA only when one of the following circumstances exist:

(i) The service area of an activity is limited to a clearly defined sector of a city or a suburban or rural community, as is the case with satellite or branch offices; or where onsite activities are involved, such as inspection and/or maintenance operations at border stations, airports, seaports, or other similar activities;

(ii) Immediate compliance is not possible due to existing leasing commitments in areas outside the central business area (CBA). In these cases, plans for the future compliance shall be made; i.e., the activity shall be relocated to the central business area upon expiration of the lease;

(iii) The proposed facility or the activity's use of a facility is not in compliance with local land use or zoning ordinances; or

(iv) The elected chief executive officer of the local government or a designee advises the agency that an activity or facility should be located in an area of the central city other than the CBA.

(2) If location outside the central business area of the central city is required, preference shall be given to location within the central city.

(3) If location outside the central city is required, preference shall be given to locations in the central business area of noncentral cities.

(4) If location outside an SMSA is required, preference shall be given to central business area of non-SMSA cities.

(d) Decisions to relocate activities from existing noncentral business area locations into the central business area shall take into consideration an analysis of the comparative costs in relationship to the anticipated benefits of the proposed relocation. These cost/benefit analysis shall compare the costs of relocation into the central business area to the costs of alternative locations that would be delineated were there no plans to relocate the activity into the central business area. In conducting cost/benefit analyses the following steps shall be followed:

(1) An estimate of the comparative costs of a central business area location versus the costs of non-CBA locations shall be made, including an analysis of:

(i) The estimated annual per-square-foot market rent for comparable space in the central business area versus similar estimated market rents for delineated noncentral business area locations under consideration, plus

(ii) The estimated per-square-foot costs of duplicating permanent special-type alterations (such as laboratory or ADP space) amortized over the term of the lease and all renewal options; plus

(iii) The estimated per-square-foot cost of relocating offices to the various alternative locations, including the central business area amortized over the term of the lease and all renewal options, and

(iv) The estimated per-square-foot cost of residential relocation of employees, eligible for relocation under the Federal Travel Regulations (FPMR 101-7), who will likely apply for relocation. (These costs also will be amortized over the term of the lease and all renewal options.)

(2) The sum of the cost factors listed in paragraph (d)(1) of this section shall be computed for each alternative location considered, including the central business area location. If the annual per-square-foot cost of locating into the central business area does not exceed by a margin of 15 percent of the per-square-foot cost of those alternative locations outside the central business area, relocation shall be accomplished without further study.

(3) When the per-square-foot costs of relocating an activity into the central business area exceeds by a margin of 15 percent the costs per square foot of the alternative noncentral business area locations, further study shall be conducted to identify anticipated intangible benefits to the Government and the urban area involved by relocating into the central business area. The assistance and advice of the local government may be solicited during this phase of analysis. This phase of analysis shall include, as appropriate, but not be limited to the identification of all benefits accruing to the Government and the local community as follows:

(i) The influence a relocation will have on any established plan of the city to develop or redevelop the central business area. This factor shall include consideration of the extent to which the plan has been or will be implemented locally through Federal financial assistance and other positive commitments by the local community and an assessment of the prospects for success of the plan;

(ii) The impact of the proposed action on the affected office space rental markets;

(iii) The extent to which the accessibility of low and moderate income housing on a nondiscrimination basis and nondiscrimination in the sale and rental of residential housing for Federal employees will be improved;

(iv) The extent to which the accessibility of the central business area location to all segments of the population of the community served will be improved;

(v) The availability of parking and public transportation for employees and visitors to the central business area location; and

(vi) All other identified benefits particularly applicable to the local situation.

(4) Data gathered in paragraphs (d)(1) and (d)(3) of this section shall be used to reach a final decision on a proposed relocation into a central business area.

(5) In communities in which it is determined there is the potential for substantial relocations of agencies into the central business area over a medium ranged period of time (3 to 5 years), the GSA regional office may conduct a cost/benefit analysis on the cumulative impact of relocating agencies into the central business area over the planning period rather than on a case-by-case basis. These analyses will be conducted as described above. Any action taken during the planning period consistent with the conclusions of the cost/benefit analysis will not require an individual analysis. Periodic reviews of long-range cost/benefit analyses will be made as appropriate.

(e) Whenever the regional Public Buildings Service determines that it is impractical to locate a Federal activity consistent with the policy of paragraph (c)(1) of this section, it must obtain approval by the Regional Administrator of a waiver of the policy for the particular space action. These waivers may be granted for temporary periods because of local real estate market conditions or permanently, but must be based on documented facts, such as cost/benefit analyses described in paragraph (d) of this section.

(f) In SMSA's with more than one central city, or in urban areas with more than one city, GSA may make new space assignments in the central business area of the most distressed city. In addition, consideration may be given to meeting space needs in other than central cities when the following conditions exist: (1) A city in an SMSA is not a central city but has over 50,000 population and (2) the level of distress in that city is determined by the Secretary of Housing and Urban Development to be equal to or greater than any of the central cities.

(g) Consistent with the policies cited in paragraphs (a), (b), (c), (d), and (f) of this section, consideration shall be given to the following criteria in meeting Federal space needs in urban areas:

(1) Impact on economic development and employment opportunities in the urban area, including use of human, natural, cultural, and community resources with the objective of targeting distressed areas;

(2) Compatibility of the site with State, regional, or local development, redevelopment, or conservation objectives;

(3) Conformity with the activities and objectives of other Federal agencies;

(4) Availability of adequate low- and moderate-income housing on a nondiscriminatory basis for employees and nondiscrimination in the sale and rental of housing; and

(5) Availability of adequate public transportation and parking and accessibility to the public.

(h) The presence of the Federal Government in the National Capital Region is such that the distribution of Federal installations has been and will continue to be a major influence in the extent and character of development. In the interest of order and economy, and in view of the special nature of the National Capital Region, these policies shall be applied in the National Capital Region in conjunction with regional policies on development and distribution of Federal employment established by the National Capital Planning Commission and consistent with the general purposes of the National Capital Planning Act of 1952, as amended.

(i) Consistent with the policies cited in paragraphs (a), (b), (c), (d), and (f) of this section, alternative sources will be considered in meeting Federal space needs in urban areas in the following order:

(1) Availability of existing federally controlled facilities. Maximum use will be made of the facilities that, in the judgment of the Administrator of General Services, are adequate or economically adaptable to meeting the space needs of executive agencies;

(2) Use of buildings of historic, architectural, or cultural significance within the meaning of section 105 of the Public Buildings Cooperative Use Act of 1976 (90 Stat. 2507);

(3) Acquisition or use of existing privately owned facilities; and

(4) Construction of new facilities.

(j) Site selection and space assignment shall take into account:

(1) The management needs for consolidation of agencies or activities in common or adjacent space to improve management and administration and effect economies; and

(2) The efficient performance of the missions and programs of the agencies, the nature and function of the facilities involved, the convenience of the public served, and the maintenance of safe and healthful working conditions for employees.

(k) To the maximum extent feasible, GSA will maintain continuous liaison with the elected chief executive officer of local government or a designee to obtain advice and consultation with respect to space assignment, acquisition, and construction activities in the community. To establish the framework for consultation on space actions, GSA will seek agreements with local governments, which shall:

(1) Establish acceptable geographic boundaries of the central business area;

(2) Identify areas of the city outside the central business area targeted for development or redevelopment that would benefit from the stimulus of the location of Federal space;

(3) Define the types and sizes of GSA projects of interest to local government;

(4) Establish appropriate timing for notifying local officials of a GSA project;

(5) Advise local officials of the availability of data on GSA plans and programs, and agree upon the exchange of planning information with local officials;

(6) Identify appropriate timing for periodic reviews of the agreement to ensure it is providing maximum consultation; and

(7) Include other appropriate information.

(l) Federal facilities and Federal use of space in rural areas shall serve to strengthen the Nation's rural communities. Federal space shall encourage growth and economic development and redevelopment in rural areas. Consistent with the provisions of section 601(b) of the Rural Development Act of 1972 (86 Stat. 674), each agency shall give first priority to meeting Federal space needs in rural areas.

(m) In meeting space needs in rural areas:

(1) First consideration shall be given to the central business area of incorporated jurisdictions, including adjacent areas of similar character and specific areas recommended by local officials, except where this type of consideration is prohibited.

(2) Serious consideration shall be given to the impact a site selection will have on improving the social, economic, environmental, and cultural conditions of the communities in a rural area. To the extent feasible, plans and programs for meeting space needs shall enhance and support the development, redevelopment, and revitalization objectives and priorities of communities in rural areas, as well as enhance and support the employment and economic base of these communities. Both positive and negative impacts of space acquisition actions shall be weighed with the objective of obtaining maximum socioeconomic benefits from these actions.

(3) In rural areas with more than one incorporated jurisdiction, space assignments shall be made in the most distressed jurisdiction.

(4) Space needs shall be met outside the central business area only when one of the exceptions contained in paragraphs (c)(1) (i), (ii), (iii), or (iv) of this section apply or in the case of county level field offices of USDA when the program requirements and needs of their clientele preclude locations in the central business area. The assignment and acquisition of facilities and space to house the activities of the U.S. Department of Agriculture are further defined in the USDA/GSA agreement in § 101-17-4701.

(n) Consistent with the policies cited in paragraphs (l) and (m) of this section, the site selection criteria contained in paragraph (j) of this section, and the alternative space acquisition methods contained in paragraph (i) of this section shall be considered. In addition, consultation with local officials in rural areas shall be consistent with the requirements of paragraph (k) of this section.

(o) In accordance with the joint White House/Office of Management and Budget memorandum, dated March 9, 1979, heads of executive agencies that acquire or use federally owned or leased space under authority other than the Federal Property and Administrative Services Act of 1949, as amended, shall notify the appropriate GSA Regional Administrator before taking an irreversible action to acquire or use space when this action is inconsistent with the basic policies of paragraphs (a), (b), (c), (d), (f), (g), (h), (i), (j), (k), (l), (m), and (n) of this section.

(1) Notification shall include the:

(i) Description of the nature of the activity to be housed, type and amount of space involved, and number of employees to be housed;

(ii) Discussion and analysis of alternatives studies;

(iii) Documentation of advice received from local government;

(iv) Copy of the environmental assessment of the proposed action; and

(v) Citation of any statutory restrictions that preclude compliance with the above-referenced paragraphs of this section.

(2) Within 30 calendar days of receipt of the agency notification, the Regional Administrator shall notify the agency head in writing of concurrence with the proposed action. If the Regional Administrator does not concur with the proposed action, the Regional Administrator shall explain any objections in writing to the agency. The Administrator of General Services will notify the Director of the Office of Management and Budget of the basis for nonconcurrence.

[45 FR 37200, June 2, 1980]

§ 101-17.003 Definition of terms.

The following definitions are established for terms used in this Subchapter D.

§ 101-17.003-1 Space assignment.

"Space assignment" means an administrative action which authorizes the occupancy and use by a Federal agency or other eligible entity of building space and land areas incidental thereto.

§ 101-17.003-2 General purpose space.

"General purpose space" means space in buildings under the assignment responsibility of GSA, including land incidental to the use thereof, which may be suitable for the use of agencies generally, as determined by GSA. The following categories of space are specifically excluded from this definition:

(a) Space in any building located in a foreign country.

(b) Space in buildings which are located on the grounds of any fort, camp, post, arsenal, navy yard, naval training station, airbase, proving ground, missile site, military academy or school, or any similar facility of the Department of Defense or U.S. Coast Guard, unless and to such an extent as a permit for its use by other agencies shall have been issued by the Secretary of Defense, or the Secretary of Transportation, as appropriate, or their duly authorized representatives.

(c) Space in the Executive Mansion, Capitol Building, the Senate and House Office Buildings, the Capitol power plant, the buildings under the jurisdiction of the Regents of the Smithsonian Institution, and the Congressional Library Building.

(d) Space in the Treasury Building, the Bureau of Engraving and Printing Building, and the buildings occupied by the National Bureau of Standards.

§ 101-17.003-2a Types of general purpose space.

Space as defined in § 101-17.003-2 is categorized as being of the office, storage, or special type. The physical characteristics of the space are the basis for determining the proper space category.

(a) "Office space" means space that must provide an acceptable environment suitable in its present state for an office operation. This requirement includes, but is not limited to, adequate lighting, air-conditioning, heating, ventilation, floor covering, finished walls, and accessibility. The space may consist of a large open area or may be partitioned into rooms. Private corridors, closets, and similar areas which have been created within office-type space through the erection of partitions shall be classified as office space. The following are representative of uses of office space.

(1) General purpose office space.

(2) Private corridors.

(3) Conference rooms (without special equipment and additional heating, ventilation, and air-conditioning—HVAC).

(4) Training rooms (without special equipment and HVAC).

(5) Libraries (without extensive built-in stacks and special floor loading).

(6) Dry laboratories.

(7) Storage in office space.

(8) Credit unions (without fixed equipment).

(9) Lounges (other than toilet areas).

(10) Reception areas.

(11) Hearing rooms (without special equipment and HVAC).

(12) Telephone switchboard rooms.

(13) Mail rooms.

(14) Health rooms (without special equipment).

(b) "Storage space" means space generally consisting of concrete, woodblock or unfinished floors, bare block or brick interior walls, unfinished ceiling, and similar construction containing minimal lighting and heating. This type of space would include attics, basements, warehouses, sheds, unimproved areas of loft buildings, and unimproved building cores. All storage space will be classified under subsets of general storage area, inside parking area, or warehouse areas as follows:

(1) General storage areas (storage in general purpose buildings) including:

(i) Basements.

(ii) Attics.

(iii) Closets (not finished to office standards).

(iv) Supply rooms (not finished to office standards).

(v) Storerooms (not finished to office standards).

(vi) File rooms (not finished to office standards).

(vii) Warehouse areas of multiuse buildings.

(2) Inside parking areas (garage space located in either a federally

owned or leased building which is utilized for the parking of motor vehicles) including:

(i) Garages.

(ii) Parking area.

(iii) Motor pool parking.

(3) Warehouse areas (entire buildings with warehouse features, including minor amounts of supporting office space).

(c) "Special space" means space which, because of architectural features or the installation of fixed (built-in) equipment and special utilities, necessitates the expenditure of varying sums to construct, maintain, and/or operate as compared to office and storage space. Special space is further defined as follows:

(1) Laboratory and clinic areas (space containing built-in equipment and utilities required for the qualitative or quantitative analysis of matter, experimentation, the processing of materials, and/or the physical welfare of employees or the public) including:

(i) Wet laboratories.

(ii) Clean laboratories.

(iii) Photographic laboratories.

(iv) Clinics.

(v) Health units and rooms (with special equipment).

(vi) Private toilets.

(2) Food service areas (space in building devoted to the preparation and dispensing of foodstuffs) including:

(i) Cafeterias (kitchen and table areas).

(ii) Snack bars.

(iii) Mechanical vending areas.

(iv) Private kitchens.

(3) Structurally changed areas (areas having architectural features differing from normal office or storage areas such as sloped floors, high ceilings, and increased floor loading) including:

(i) Auditoriums.

(ii) Gymnasiums.

(iii) Libraries (with special stacks and floor loading).

(iv) Target ranges.

(v) Security vaults.

(vi) Courtrooms.

(vii) U.S. Postal Service workrooms.

(4) Automatic data processing areas (areas having special features such as humidity and temperature control, raised flooring, and special wiring) including:

(i) Computer rooms.

(ii) Support areas (with special flooring and wiring).

(iii) Tape vaults.

(5) Conference and training areas (areas used for conferences, training, and hearings with special equipment and supplemental HVAC) including:

(i) Conference rooms.

(ii) Hearing rooms.

(iii) Training rooms.

(iv) Exhibit areas.

(v) Small courtrooms (no structural changes).

(6) Light industrial areas including:

(i) Records storage (with humidity control).

(ii) Storage type space (with air-conditioning).

(iii) Printing plants.

(iv) Product classifying laboratories.

(v) Motor Pool service areas.

(vi) Postal workrooms, swingrooms, locker rooms, mailing vestibules and platforms, and lock box lobbies.

(vii) Shops (other than PBS).

(viii) Loading docks and shipping platforms.

(ix) Canopy areas.

(x) Vertical improved mail system areas.

(7) Quarters and residential housing areas (housing and quarters that do not logically fall in the other categories).

§ 101-17.003-3 Special purpose space.

"Special purpose space" means space in buildings under the assignment responsibility of GSA, including land incidental to the use thereof, which is wholly or predominantly utilized for the special purposes of an agency and not generally suitable for the use of other agencies, as determined by GSA.

§ 101-17.003-4 Government-owned space.

"Government-owned space" means space in buildings, and land incidental thereto, the title to which is vested, or which will become vested, pursuant to existing agreement, in the United States Government.

§ 101-17.003-5 Leased space.

"Leased space" means space in buildings, and land incidental thereto, for which the Government has a right of occupancy by virtue of having acquired a leasehold interest.

§ 101-17.003-6 Permit space.

"Permit space" means space in buildings, and land incidental thereto, for which a right of occupancy has been granted by permit from another Federal agency.

§ 101-17.003-7 Occupancy guides.

"Occupancy guides" means printed guidelines developed jointly by GSA and the affected agency which outline the space requirements based on the functions, operations, and staffing of the particular agency for which they are developed.

§ 101-17.003-8 Private office.

"Private office" means a room occupied by one individual. This room may be enclosed by either ceiling-high or screen partitions.

§ 101-17.003-9 Semiprivate office.

"Semiprivate office" means a room not exceeding 400 square feet occupied by two or more individuals. This room may be enclosed by either ceiling-high or screen partitions.

§ 101-17.003-10 Open office area.

"Open office area" means an area exceeding 400 square feet that may contain work stations and/or administrative support functions. This area may be enclosed by either ceiling-high or screen partitions.

§ 101-17.003-11 Work station.

"Work station" means the furniture, equipment, and immediatte area generally required by one worker. A multiple occupancy work station is considered a single work station. Two physically separate areas used by a single worker are considered two work stations. Support equipment and supply areas used by more than one worker are not considered work stations.

[43 FR 35484, Aug. 10, 1978]

§ 101-17.003-12 Administrative support space.

"Administrative support space" means office space which is required in addition to work station space to house equipment and/or functions which an agency requires to properly perform its mission.

§ 101-17.003-13 Joint use space.

"Joint use space" means that common space available for use by all occupants of the building such as cafeterias, conference rooms, credit unions, and snack bars. It does not include mechanical, custodial, or circulation areas.

§§ 101-17.003-14—101-17.003-15 [Reserved]

§ 101-17.003-16 Inside parking space.

"Inside parking space" means that motor pool space and parking space for Postal Service, official, employee, and visitor vehicles that is part of a building or in a structure specifically designed for vehicle parking.

§ 101-17.003-17 Outside parking space.

"Outside parking space" means that parking space not included in the inside parking space category, such as uncovered ground level parking areas or parking lots either paved or unpaved.

§ 101-17.003-18 Space planning.

"Space planning" means a study using the latest techniques to determine the best location and the most efficient layout of agency operations and equipment.

§ 101-17.003-19 Space layout.

"Space layout" means the specific placement of work stations, furniture, and equipment to provide maximum efficiency of an agency operation. This is normally accomplished by the use of templates.

§ 101-17.003-20 Space utilization.

"Space utilization" means the manner and the degree of efficiency in which Government-owned and -leased facilities are occupied.

§ 101-17.003-21 Space inspection.

"Space inspection" means a reconnaissance-type evaluation of the manner in which space assignments are being utilized to determine whether immediate or scheduled corrective action is indicated.

§ 101-17.003-22 Space utilization survey.

"Space utilization survey" means a detailed analysis, using recognized space management procedures and techniques, of the manner in which an agency is utilizing its space.

§ 101-17.003-23 Federal agency.

"Federal agency" means any executive agency or any establishment in the legislative or judicial branch of the Government except the Senate, the House of Representatives, and the Architect of the Capitol and any activities under his direction.

§ 101-17.003-24 Executive agency.

"Executive agency" means any executive department or independent establishment in the executive branch of the Government, including any wholly owned Government corporation.

§ 101-17.003-25 Non-Federal organizations.

"Non-Federal organizations" means organizations such as credit unions, concessions, and vending stands operated by the blind; organizations under the direct sponsorship of a Federal agency such as grantees and contractors; and such recognized groups or organizations as defined in § 101-20.701.

§ 101-17.003-26 Gross area.

"Gross area" means the sum of the floor areas computed by measuring from the normal outside face of exterior walls, disregarding architectural setbacks or projections, cornices, pilasters, and buttresses, and including all stories or areas which have floor surfaces and a clear standing headroom of 6½ feet or more. Gross area includes basements (except unexcavated portions), attics, garages, roofed porches, mezzanines, loading platforms, shipping platforms, penthouses, mechanical equipment floors, lobbies, and corridors. Suspended postal lookout galleries are not included. Gross area does not include open courts, light wells, upper portions of rooms, lobbies and other areas which rise above the story being measured, drives or ramps extending beyond the principal exterior walls of the building, or unroofed areas such as cooling towers and unenclosed portions of ground level or intermediate stories.

§ 101-17.003-27 Occupiable area.

"Occupiable area" means that portion of the gross area which is available for use by an occupant's personnel or furnishings, including space which is available jointly to the various occupants of the building, such as auditoriums, health units, and snack bars. Occupiable area does not include that space in the building which is devoted to its operations and maintenance, including craft shops, gear rooms, and building supply storage and issue rooms. Nonpermanent ceiling-high corridors solely serving a single space assignment and permanent corridors restricted for the security purposes of a single space assignment are occupiable. Occupiable area is computed by measuring from the occupant's side of ceiling-high corridor partitions or partitions enclosing mechanical, toilet, and/or custodial space to the inside finish of permanent exterior building walls or to the face of the convector if the convector occupies at least 50 percent of the length of the exterior wall. When computing occupiable area separated by partitions, measurements are taken from the center line of such partitions.

[43 FR 35484, Aug. 10, 1978]

§ 101-17.003-28 Building support area.

"Building support area" means that portion of the floor area that is not occupiable by an occupant's personnel or furnishings. It consists of the mechanical, toilet, custodial, circulation, and construction areas including their enclosing walls and represents the difference between gross area and occupiable area.

§ 101-17.003-29 Government-controlled space.

"Government-controlled space" means Government-owned space or Government-leased space.

§ 101-17.003-30 Circulation factor.

"Circulation factor" means an allowance to enable movement within occupiable space which may be added by GSA to space requests depending on agency functions and anticipated or actual physical variations in buildings. In practice, the actual circulation factors may vary depending on:

(a) Bay and floor size;

(b) Shape and symmetry of the space;

(c) Building core size and location;

(d) Column spacing, chases, and building projections; and

(e) Location of fixed corridors and fire aisles.

[43 FR 35484, Aug. 10, 1978]

§ 101-17.003.31 Layout factor.

"Layout factor" means an allowance to enable efficient location of equipment and work station components within occupiable space which may be added by GSA to space requests depending on the use of existing and/or proposed furniture, various layout techniques, and anticipated or actual physical variations in buildings. In practice, actual layout factors may depend on:

(a) Furniture type, size, and interchangeability and the extent to which they can be logically and efficiently linked;

(b) The type of layout techniques to be employed by the planner/designer when it is finally drawn up; as well as

(c) The actual expertise of the planner/designer in performing the layout task and the time available to accomplish it.

[43 FR 35484, Aug. 10, 1978]

§ 101-17.003-32 Space allocation standards.

"Space allocation standards" means agreements between GSA and an agency that are written in terms which permit nationwide application and are used:

(a) As a basis for establishing agency space requirements;

(b) To document variations from FPMR guidelines in determining agency space allocations; and

(c) To establish exceptions to general guidelines for GSA and agency responsibilities in initial space alteration funding.

[43 FR 35485, Aug. 10, 1978]

§ 101-17.003-33 Urban area.

"Urban area" means any Standard Metropolitan Statistical Area (SMSA) as defined by the Department of Commerce and any non-SMSA that meets one of the following criteria:

(a) A geographical area within the jurisdiction of any incorporated city, town, borough, village, or other unit of general local government, except county or parish, having a population of 10,000 or more inhabitants.

(b) That portion of the geographical area within the jurisdiction of any county, town, township, or similar governmental entity which contains no incorporated unit of general local government, but has a population density equal to or exceeding 1,500 inhabitants per square mile; or

(c) That portion of any geographical area having a population density equal to or exceeding 1,500 inhabitants per square mile and situated adjacent to the boundary of any incorporated unit of general local government which has a population of 10,000 or more inhabitants. (Reference: The Intergovernmental Cooperation Act of 1968, 40 U.S.C 535.)

[45 FR 37203, June 2, 1980]

§ 101-17.003-34 Central business areas.

"Central business areas" means those areas within a central city in an SMSA or any non-SMSA that encompass the community's principal business and commercial activities, and the immediate fringes thereof, as geographically defined in consultation with local elected officials.

[45 FR 37203, June 2, 1980]

§ 101-17.003-35 Central city.

"Central city" means any city whose name appears in the title of an SMSA.

Criteria for determining SMSA titles are established by the Department of Commerce.

[45 FR 37203, June 2, 1980]

§ 101-17.003-36 Rural area.

"Rural area" means any area that (a) is within a city or town if the city or town has a population of less than 10,000 or (b) is not within the outer boundaries of a city or town if the city or town has a population of 50,000 or more and if the adjacent urbanized and urbanizing areas have a population density of more than 100 square mile.

[45 FR 37203, June 2, 1980]

Subpart 101-17.1—Assignment of Space

§ 101-17.100 Scope of subpart.

This subpart prescribes the responsibilities and procedures which are applicable to the assignment of space to Federal agencies and other entities entitled to occupy space in Government-owned and -leased buildings.

§ 101-17.101 Requests for space.

(a) Except as provided in § 101-17.101-2, Federal agencies shall satisfy their space needs by submitting a Standard Form 81, Request for Space, to the GSA regional office responsible for the geographic area in which the space is required. A listing of GSA regional offices and the areas they service is shown in § 101-17.4801.

(b) Heads of executive agencies shall:

(1) Cooperate with and assist the Administrator of General Services in carrying out the Administrator's responsibilities with respect to buildings and space, recognizing the requirement that primary consideration be given to locating within the central business area in urban areas

(2) Give the Administrator of General Services early notice of new or changing space requirements;

(3) Economize in their requirements for space; and

(4) Review continuously their needs for space in and near the District of Columbia, taking into account the feasibility of decentralizing services or activities which can be accomplished elsewhere in the Nation without excessive costs or significant loss of efficiency.

[39 FR 23196, June 27, 1974, as amended at 45 FR 37203, June 2, 1980]

§ 101-17.101-1 Form of request.

Space requests, except those for space in proposed buildings included in the Public Buildings Construction Program, shall be submitted on Standard Form 81, Revised, Request for Space. (See § 101-17.4901-81, Request for Space). Requests for space in buildings proposed for construction shall be submitted to GSA on GSA Form 144, Space Requirements. (See § 101-17.4902-144.)

§ 101-17.101-1a Type of request.

The type of request shall be indicated on Standard Form 81, Request for Space.

(a) An initial request means a request for space in a location where an agency does not presently occupy any space or where space is required for new agencies or new missions of existing agencies.

(b) A supplemental request means a request for space in a location where an agency already occupies space but needs additional space to provide for expanding program responsibilities.

(c) A replacement request means a request for space to replace that occupied by an agency as a result of a relocation or a consolidation of agency activities.

§ 101-17.101-1b Certification of request.

The need for space requested, the number of personnel listed, and the availability of funds, as appropriate, for reimbursement to GSA shall be certified by an authorized official of the requesting agency on the Standard Form 81. When applicable, the certification will also state that the request is in compliance with §§ 101-17.103, 101-18.107, and 101-19.101 which require the requesting agency to submit documentation that the availability of low and middle income housing in the delineated area has been cleared with the Department of Housing and Urban Development.

§ 101-17.101-2 Exceptions to submitting requests for space.

Standard Form 81 need not be filed by Federal agencies when the space desired or to be acquired is:

(a) General purpose space of 2,500 square feet or less falling within the geographical area where leasing authority has been delegated to the agency. (See § 101-18.104.)

(b) Special purpose space of 2,500 square feet or less irrespective of geographical location.

(c) Space acquired by the U.S. Postal Service.

(d) Space for short-term conferences and meetings. (See § 101-17.101-4.)

§ 101-17.101-3 Action when space is not available.

If no suitable Government-controlled space is available, GSA will so advise the requesting agency by the return of a signed copy of the Standard Form 81, showing thereon the action to be taken.

(a) When the agency has acquisition authority or has been delegated such authority by the Administrator of General Services it may thereupon proceed to acquire the requested space. The signed copy of the Standard Form 81 shall be attached to the leasing or related instrument made available to the General Accounting Office. Such clearances are extended on a fiscal year or part of a fiscal year basis, except in these instances in which the acquiring activity uses longer term leasing authority.

(b) GSA may take necessary action to acquire space for agencies having acquisition authority when the latter so request by checking the appropriate block on Standard Form 81.

(c) GSA will take the necessary action to acquire the space for agencies having no acquisition authority.

§ 101-17.101-4 Short-term use of conference and meeting facilities.

Agencies having a need for facilities for short-term conferences and meetings shall contact GSA informally to make their requirements known. GSA will determine if suitable Government-owned facilities are available in the desired area and, if so, will notify the requesting agency of its assignment. If no suitable facilities are available, GSA will assist or advise agencies in arranging for the use of privately owned facilities when agencies have authority to contract by purchase order or other means. Payment for use of privately owned conference or meeting rooms is, in fact, payment for the services and furnishings that are provided. Such services and furnishings, in addition to the facilities (auditorium, conference room, meeting room, etc.), would include chairs (already placed as requested by the user), rostrum with tables and chairs, posting of notices on appropriate building bulletin board, amplifier system, screen and motion picture projector, and other special equipment needed. GSA may obtain privately owned conference and meeting facilities by service contract on an hourly rate basis where combined requirements of the Federal agencies in a particular area would justify an open end service contract for such space for intermittent use periods or for an extended period of time.

§ 101-17.101-5 Space requirements for ADP equipment.

(a) Agencies requiring space for the installation of data processing equipment must provide the following information in addition to the requirements of § 101-17.101-1:

(1) Type of equipment (including make, model number, manufacturer, and number of units of each);

(2) Space and environmental requirements, including:

(i) Floor weight (lbs.);

(ii) Machine dimensions (width, depth, and height in inches);

(iii) Service clearance (front, rear, right and left sides);

(iv) Power in voltage and kv.-a. (starting loads and operating loads);

(v) Heat dissipation in B.t.u./hr. and air flow (c.f.m.);

(vi) Environmental factors of temperature range (F) and relative humidity; and

(vii) Need for raised floor, acoustic ceiling, and air-conditioning;

(3) Related requirements, such as storage space for supplies, tapes, and disks; work space, including desk and

aisle space; and future expansion needs;

(4) Agency responsible for funding; and

(5) Required occupancy date.

(b) The above information should be provided as separate supplemental data to Standard Form 81, Request for Space, and forwarded to the GSA office as outlined in § 101-17.101. The space requirements indicated in block 11 of Standard Form 81 must include the space requirements for all components of ADPE. The ADPE supplier should be consulted prior to establishing space needs in order to ascertain any specific or peculiar space requirements of the ADPE involved.

(c) It is essential that this information regarding the requirement for ADP space be transmitted to GSA as far as possible in advance of delivery of equipment so that space can be provided in a timely and economical manner.

§ 101-17.101-6 Procurement of parking for Government-owned vehicles.

Agencies having a need for other than temporary parking accommodations in the urban centers listed in § 101-18.102, for Government-owned motor vehicles not regularly housed by GSA, shall, prior to initiating procurement action for parking accommodations, make their needs for such facilities known to the appropriate GSA office as outlined in § 101-17.101. The request, which may be in the form provided in Standard Form 81. Request for Space, will be reviewed by GSA to determine the availability of Government-controlled space. The agency will be notified promptly should no such space be available. This notification will become a part of the file supporting the subsequent procurement.

§ 101-17.102 Procedures for assigning space.

§ 101-17.102-1 Assignment by GSA.

(a) GSA will perform all functions with respect to the assignment and reassignment of space:

(1) In Government-owned buildings which GSA controlled for assignment and reassignment purposes on June 30, 1950.

(2) In specific Government-owned buildings for which assignment and reassignment functions were transferred to GSA pursuant to section 1 of Reorganization Plan No. 18 of 1950 (3 CFR; 40 U.S.C. 490 note) or section 210(d) of the Federal Property and Administrative Service Act of 1949, as amended (40 U.S.C. 490(d)).

(3) In Government-owned buildings or space acquired by GSA by purchase, condemnation, transfer, lease, or otherwise.

(4) In Government-owned buildings which have been or may be determined to be within the assignment and reassignment authority of GSA.

(b) GSA may, in accordance with policies and directives prescribed by the President, including Executive Order 12072 of August 16, 1978 (43 FR 36869), under sections 205(a) and 210(e) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(a) and 490(e)), and after consultation with the agencies affected, assign and reassign space of any executive agencies after determining that such assignments or reassignment is advantageous to the Government in terms of economy, efficiency, or national security.

[39 FR 23196, June 27, 1974, as amended at 45 FR 37203, June 2, 1980]

§ 101-17.102-2 Assignment by agencies.

Except for the space covered by § 101-17.102-1(a), and subject to the provisions of § 101-17.102-1(b), agencies may perform all functions with respect to the assignment and reassignment of space. The Administrator of General Services may, in specific cases, authorize executive agencies to perform any of the functions described in § 101-17.102-1(a).

§ 101-17.103 Application of socioeconomic considerations.

(a) Agencies shall cooperate with GSA in coordinating proposed programs and plans for buildings and space in a manner designed to exert a positive economic and social influence on the development or redevelopment of the areas in which such facilities will be located.

(b) Whenever actions are proposed to accomplish the reassignment or utilization of space through the relocation of an existing major work force, the impact on low- and moderate-income and minority employees shall be considered where:

(1) 100 or more low- and moderate-income employees are expected to be employed in the new space; and

(2) The relocation involves residential relocation of a majority of the existing low- and moderate-income work force, a significant increase in their transportation or parking costs, travel time that exceeds 45 minutes to the new location or a 20 percent increase in travel time if travel time to the present facility already exceeds an average of 45 minutes.

(c) The Department of Housing and Urban Development will be consulted concerning the availability on a nondiscriminatory basis of low- and moderate-income housing to the project area for those Federal employees who will work in the space to be assigned or reassigned when the action meets the criteria in paragraph (b) of this section.

(d) When, after consultation, it is determined that (1) there is a lack of low- and moderate-income housing on a nondiscriminatory basis within reasonable proximity and (2) the location is not readily accessible from other areas of the urban center, an affirmative action plan shall be developed as described in § 101-19.101-4 with agency participation as described in § 101-19.101-5.

[42 FR 57462, Nov. 3, 1977]

§ 101-17.104 Reviews and appeals of space assignment actions.

(Sec. 205(c), 63 Stat. 390, 40 U.S.C. 486(c))

[42 FR 57462, Nov. 3, 1977]

§ 101-17.104-1 Informal review.

Agencies may, at any time, request a regional review of space assignment actions without resorting to formal procedures. Space assignment actions include but are not limited to space allowances, measurements, classifications, layouts, delineated areas, recommended offers, and proposed relocations. Requests for an informal review shall be directed to the appropriate GSA regional office (see § 101-17.4801), which will furnish a written response if it is requested.

(Sec. 205(c), 63 Stat. 390, 40 U.S.C. 486(c))

[42 FR 57462, Nov. 3, 1977]

§ 101-17.104-2 Formal review.

A request for a formal review of a space assignment action shall initially be submitted to the appropriate GSA regional office by the agency official authorized to sign the Standard Form 81, Request for Space. A request for a formal review shall be in writing and shall include all pertinent information and supporting documentation. The GSA regional office will verify the data and perform additional investigation as necessary. The Regional Director, Space Management Division, will review all data and make a written determination. A copy of the decision will be sent to the requesting agency.

(Sec. 205(c), 63 Stat. 390, 40 U.S.C. 486(c))

[42 FR 57462, Nov. 3, 1977]

§ 101-17.104-3 Initial appeal.

Within 30 calendar days after receipt of the decision, the regional agency head (or his designee) may submit an appeal of that decision to the Regional Administrator, GSA.

(a) In the appeal the agency official shall state, in writing, the basis for the original request for formal review. Only information provided with that request will be considered. Any new or additional information or facts introduced at this level will require that the appeal undergo another formal review.

(b) Within 30 calendar days the Regional Administrator, GSA, will notify the agency of his decision. In cases requiring more detailed analysis than can be accomplished within 30 days, the Regional Administrator will notify the agency and establish a date on which his decision will be rendered.

(Sec. 205(c), 63 Stat. 390, 40 U.S.C. 486(c))

[42 FR 57462, Nov. 3, 1977]

§ 101-17.104-4 Further appeals.

(a) Within 30 calendar days after the agency has been notified of the

Regional Administrator's decision, a further appeal may be filed by the agency head with the Administrator of General Services. Substantial justification should be furnished that the decision was arbitrary, capricious, or not supported by the evidence presented. The Administrator will render the agency's decision within 30 calendar days of receipt of the appeal.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

[42 FR 57462, Nov. 3, 1977, as amended at 44 FR 16394, Mar. 19, 1979]

Subpart 101-17.2—Utilization of Space

§ 101-17.200 Scope of subpart.

This subpart prescribes the principles and objectives of GSA in regard to the full and efficient utilization of Government-controlled space. The efficient utilization of space is closely related to the assignment functions of GSA, and, therefore, this subpart shall be considered in the light of the policies and procedures in Subpart 101-17.1, Assignment of Space.

§ 101-17.201 Responsibility of GSA.

(a) GSA will assign agencies sufficient space to carry out their programs, provided that the need for such space is justified to the satisfaction of GSA.

(b) GSA will conduct space inspections and space utilization surveys to promote and enforce efficient utilization, recapturing for release or reassignment any space which the agencies do not justify to the satisfaction of GSA as being required. Adequate advance notice of the planned survey will be given to the agency concerned.

§ 101-17.201-1 Conduct of space inspections.

GSA will plan space inspections at periodic intervals on a community, building, or agency basis as appropriate. Inspections will be made in an orderly manner, on the basis of a floor-by-floor and room-by-room check of all assigned space. The agency will be provided with a written summary of significant findings and recommendations, together with data concerning improvements which can be effected by the agency, and those which are planned by GSA.

§ 101-17.201-2 Conduct of space utilization surveys.

Space utilization surveys are made to ascertain whether a current assignment can be made more efficient and economical. These surveys may be scheduled as a result of a request for space, an action to improve utilization, an assignment action requiring a relocation of an activity, or as a result of a space inspection. Agencies will be kept informed of space utilization surveys and actions related thereto by the appropriate GSA regional office listed in § 101-17.4801.

§ 101-17.202 Responsibility of agencies.

It is the responsibility of the agencies to assist and cooperate with GSA in the assignment and utilization of space, including the furnishing of data relative to the use of the space occupied, and personnel housed or to be housed. It is the further responsibility of the agencies continuously to study and survey space occupied under assignment by GSA and other space which is controlled by the agencies, to insure efficient and economical space utilization. It is also the responsibility of those agencies which control space to report to GSA any space which is excess to their needs and which might be assigned to other agencies.

§ 101-17.203 Release of space not fully utilized.

The space utilization program is designed to effect maximum efficient utilization of Government-controlled space. Space for which there is no current foreseeable need will be relinquished.

§ 101-17.204 Notice to GSA of relinquishment of assigned space.

(a) GSA shall be notified by an agency occupying space assigned by GSA at least 120 days prior to the date on which the space, or portion thereof, will no longer be needed. In no event, however, shall such notice be given less than 30 days prior to the date on which a lease termination notice must be issued. Such notification shall be submitted in writing to the GSA regional office responsible for the geographical area in which the space is located, giving a description of the area involved, its location and the estimated date of release. When a portion of space is released, it must be consolidated and accessible for reassignment. Any alteration required to make such space consolidated and accessible will be borne by the agency before the space is assumed by GSA. The appropriate GSA regional office may reassign or dispose of the space.

(b) When an agency is responsible for operation, maintenance, and protection of Government-owned space to which it has been assigned by GSA, and the agency determines that such space, or a portion thereof, is no longer needed, the agency shall so notify GSA at least 6 months prior to relinquishing the space in the same manner as indicated in paragraph (a) of this section. The operation, protection, and maintenance of the real property or portion thereof to be released shall continue to be the responsibility of the agency until the first day of the fiscal quarter after the 6-month period ends.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)))
[39 FR 23196, June 27, 1974, as amended at 42 FR 16778, Mar. 30, 1977]

Subpart 101-17.3—Space Standards, Criteria, and Guidelines

§ 101-17.300 Scope of subpart.

This subpart identifies those factors affecting office layout which must be considered in connection with achieving more efficient layouts and better space utilization.

§ 101-17.301 Space allowances.

Space allowances are derived from specific studies of the operations of the agencies, and are directed toward providing each employee with enough space to work efficiently.

§ 101-17.302 Use of occupancy guides.

The objectives of the occupancy guide program are to improve agency operations and promote economic and prudent utilization of Government-controlled space through the development and application of occupancy standards and criteria for specific agencies and activities. Each occupancy guide represents an agreement between GSA and the agency as to the latter's space requirements and is written in terms which permit nationwide application. The criteria contained in occupancy guides will be used as a basis for estimating agency space requirements for those agencies for which guides have been published and allowances are considered to be maximum. Occupancy guides will be reviewed jointly by GSA and the agencies and revised to conform with the allowances contained in this Subpart 101-17.3.

§ 101-17.303 Use of space allocation allowances.

(a) The space allowances listed in §§ 101-17.304-1 and 101-17.304-2 are to be used in space planning for agencies or components thereof for which occupancy guides have not been published. In addition, these allowances are applicable for all agency headquarters activities.

(b) Work station space allowances listed in § 101-17.304-1 shall not necessarily be used as criteria for assigning space to individuals. Rather, they should be used to estimate that portion of the total office space that is required for work stations.

§ 101-17.304 Office space allowances.

The amount of office space developed by application of these allowances should normally be sufficient to house office elements of executive agencies. It is recognized, however, that agency functions and needs and physical variations in buildings will cause deviations in the determination of the amount of space assigned, and its division into private, semiprivate, open areas, or other uses will be based upon a templated layout which reflects the optimum use of the space and the workflow requirements of the using agency.

§ 101-17.304-1 Work station space allowances for general schedule personnel.

Grade	Type of assignment[1]	Office space[2]
GS 1 to 6		60
GS 7 to 11	Nonsupervisory	75
GS 7 to 11	Supervisory	100
GS 12 to 13	Nonsupervisory	100
GS 12 to 13	Supervisory	150
GS 14 to 15	Nonsupervisory	150
GS 14 to 15	Supervisory	225
GS 16, 17, and 18	Nonsupervisory	225
GS 16	Supervisory	300
GS 17	Supervisory	350
GS 18	Supervisory	400

[1] Supervisory means supervision of or frequent meetings with 3 or more employees within the office's confines.

[2] Allowance in square feet per person.

[43 FR 34139, Aug. 3, 1978]

§ 101-17.304-2 Administrative support space allowances.

The following space allowance table is to be used in determining the amount of administrative support space required in office space planning. Although work stations may be interspersed in administrative support areas, allowances for administrative support areas may not be added to allowances for work stations except where support area furniture exceeds the capacity of the work station area.

SPACE ALLOWANCE TABLES

TABLE I—COMMON FURNITURE AND EQUIPMENT

Item	Size (inches)	Allowance (square feet)
Bookcase	13 x 33	6
Bookcase, unitized	22 x 18	4
Cabinet, storage, wardrobe	18 x 24	6
Do	18 x 36	9
Do	24 x 36	11
Cabinet, stationary	18 x 36	9
Cabinet, filing (letter size)	15 x 25	7
Cabinet, filing (legal size)	18 x 25	8
Cabinet, filing (safe)	19 x 28	9
Cabinet, filing (map, plan)	36 x 48	24
Do	36 x 60	30
Chair, side		5
Costumer (hat tree)		4
Credenza (not part of a work station)	18 x 66	15
Locker, clothing	18 x 21	6
Do	36 x 21	12
Safe (1-door)	21 x 23	8
Do	42 x 36	10
Safe (2-door)	42 x 36	18
Stand, dictionary		4
Stand, office machine	18 x 18	5
Do	18 x 34	9
Do	24 x 36	12
Table	14 x 26	4
Do	24 x 36	12
Do	30 x 60	25
Do	34 x 60	30
Do	36 x 72	35
Valet rack	20 x 30	8
Do	20 x 51	14
Shelving	12 x 36	9
Do	18 x 36	10
Do	24 x 36	11

TABLE II—COMMON FUNCTIONS

Item	Allowance
Conference and meeting rooms.	On 50 percent time/use basis at 20 square feet per person, based on average number of persons in attendance.
Classrooms and training rooms.	Desk/arm chair at 10 square feet per person. Desk and chair at 40 square feet per person.
Reception areas	Based on average visitor load at 10 square feet per person.
Exhibit areas, internal duplicating, libraries, mailrooms, supply rooms.	Actual measurement of equipment plus circulation.

§ 101-17.305 Storage space allowances.

Storage space shall be estimated by application of the allowances in § 101-17.304-2 where standard storage equipment (file cabinets, shelving, and safes) is used. When such is not the case (such as bulk storage of furniture, equipment, and supplies), a careful estimate of the space requirement must be made by onsite inspection, giving due consideration to warehousing techniques.

§ 101-17.306 Special space allowances.

To the extent possible, space for special use shall be estimated on the basis of specialized standards, such as those for laboratory equipment. Distributors of specialized equipment can readily provide information on space required to house particular items of equipment, and their advice should be sought whenever possible. The criteria contained in § 101-17.304 may be used to estimate space required for conference rooms, classrooms, and training rooms.

§ 101-17.307 Private office space allowances.

Private offices should be provided only when there is a demonstrated functional need. They should be only large enough for the occupant to conduct his normal business in an efficient manner and with a reasonable degree of dignity. The normal maximum allowance for private offices is 300 square feet, but this should be considered only in instances in which it is necessary for the occupant to confer frequently with sizable groups of people, and a conference room is not convenient.

§ 101-17.308 Supplemental space standards for Government executives.

The standards in §§ 101-17.308-1 and 101-17.308-2 are prescribed for use in the assignment of space to executive schedule personnel (levels I through V) and supergrade employees (GS 16, GS 17, and GS 18). In implementing and using these standards, the following criteria apply:

(a) These standards are used in estimating that portion of the total office space required for executive work stations, and as such are considered neither maximums nor minimums except where so noted. A degree of latitude is necessary, depending on building configuration, functional and operational needs, and the best interests of the Government.

(b) These standards shall not be retroactively applied to justify additional space or improvements for existing offices, nor shall they be used to reduce current assignments which exceed the allotments. Compliance with the standards shall be achieved through new assignments and reassignments which take place as a result of normal turnover of office space and facilities.

(c) Alterations and amenities allowed by these standards, but which exceed GSA standard levels of alteration, shall be reimbursable to GSA by the Agency involved.

(d) If they so desire, individual Agencies may adopt more stringent standards for their executives and apply such in-house allocations to their requests for space.

(e) High-level military personnel housed in GSA-controlled space shall be subject to application of these standards at the civilian level to which their rank is equivalent.

(f) In the interest of using the public dollar judiciously, Government executives are expected to exercise restraint in furnishing and equipping their offices. Since much can be accomplished by the use of currently available furnishings, "built-ins" and other unusual alterations should be kept to a minimum. All alterations and amenities not detailed herein should meet the test of reasonable cost.

(g) As long as an office is in good repair and suitable to the function of the executive position to which it is assigned, it is GSA's policy to discourage personal preferential modifications with a change in occupant.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

[43 FR 34139, Aug. 3, 1978]

§ 101-17.308-1 Standards for executive schedule personnel.

The following standards shall be applied in the assignment of space to executive schedule personnel, levels I through V, as indicated.

(a) Square foot allowances for private offices and conference rooms for executive schedule personnel shall be as follows (any official entitled to a private conference room, when in proximity to another, may be reasonably expected to share conference facilities. Where private conference rooms are not authorized, officials shall use "conference-rooms-in-common" or their own offices. Common conference rooms must be justified in accordance with the provisions of § 101-17.304-2, table II.):

(1) Level I: 750 square foot private office; 500 square foot proximate conference room.

(2) Level II: 600 square foot private office; 400 square foot proximate conference room.

(3) Level III:

(i) "Directors," "Administrators," "Chairmen," "Governors," "Comptrollers," "Commissioners," "Presidents," and "Solicitors General"—500 square foot private office; 300 square foot proximate conference room.

(ii) "Deputy Administrators," "Deputy Directors," and "Under Secretaries"—500 square foot private office; private conference rooms not authorized.

(iii) "Members" of various Commissions and Boards—private office allowances variable at the determination of the GSA Regional Space Management Division but shall not exceed 400 square feet; private conference rooms not authorized.

(4) Level IV:

(i) All officials except "Members"—450 square foot private office; private conference rooms not authorized.

(ii) "Members" of various Commissions, Boards, Councils, and Authorities—private office allowances variable at the determination of the GSA Regional Space Management Division, but shall not exceed 400 square feet; private conference rooms not authorized.

(5) Level V:

(i) All officials except "Members"—400 square foot private office; private conference rooms not authorized.

(ii) "Members" of various Commissions and Boards—private office allowances variable at the determination of the GSA Regional Space Management Division, but shall not exceed 400 square feet; private conference rooms not authorized.

(b) The use of wood paneling is strongly discouraged because of its expense and the fire hazard it presents unless it is chemically treated. All requests for wood paneling must be approved by GSA.

(c) The use of vinyl wall covering is authorized for all executive schedule personnel.

(d) Allowances for toilets, sinks, and showers for executive schedule personnel shall be as follows (toilets, sinks, or showers for "Members" of various Commissions, Boards, Councils, and Authorities are not authorized, regardless of level.):

(1) Level I: Toilet, sink, vanity, and shower; 45 square feet.

(2) Level II: Toilet, sink, and shower; 35 square feet.

(3) Level III: Toilet and sink; 30 square feet.

(4) Level IV: Toilet and sink; 25 square feet.

(5) Level V: Toilet and sink; 25 square feet.

(e) Allowances for kitchens and dining rooms for executive schedule personnel shall be as follows (kitchen and dining facilities for "Deputies," "Under Secretaries," "Assistant Secretaries," and "Members" of various Commissions, Boards, Councils, and Authorities are not authorized, regardless of level. These officials may share the facilities of their Secretaries and/or Chairmen.):

(1) Level I: 50 square foot kitchen area consisting of electric four-burner range, double oven, refrigerator, dishwasher, sink, and cabinets as necessary; 300 square foot dining area.

(2) Level II (for official serving as head of Agency): 40 square foot kitchen area consisting of electric four-burner range, single oven, refrigerator, sink, and cabinets as necessary; 250 square foot dining area.

(3) Level III (for official serving as head of Agency): 30 square foot kitchen area consisting of electric four-burner range, single oven, refrigerator, sink, and cabinets as necessary; 200 square foot dining area.

(4) Level IV: Kitchen and/or dining area not authorized.

(5) Level V: Kitchen and/or dining area not authorized.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

[43 FR 34139, Aug. 3, 1978]

§ 101-17.308-2 Supplemental standards for supergrade personnel.

The following standards shall be applied in the assignment of space to supergrade personnel (GS-16, GS-17, and GS-18) as indicated.

(a) Private conference rooms for supergrade personnel are not authorized. Officials shall use "conference-rooms-in-common" or their own offices. Common conference facilities must be justified in accordance with the provisions of § 101-17.304-2, table II.

(b) Use of wood paneling is not authorized for supergrade personnel.

(c) Use of vinyl wall covering is authorized for supergrade personnel.

(d) Toilets, sinks, or showers for supergrade personnel are not authorized.

(e) Kitchen and dining areas for supergrade personnel are not authorized.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))
[43 FR 34140, Aug. 3, 1978]

Subpart 101-17.4—Space Planning and Layout

§ 101-17.400 Scope of subpart.

This subpart outlines the methods used in the planning and layout of space assignments and prescribes the conditions governing GSA—agency coordination.

§ 101-17.401 Space planning assistance.

GSA shall be responsible for preparing the initial space layout. When an agency requires subsequent space layout assistance, a request for such assistance should be made to the regional office of GSA responsible for the geographical area in which the space is located. In consultation with the agency, GSA will determine the scope of assistance required and will provide such service on a reimbursable basis either by use of existing staff or by contract.

§ 101-17.402 Use of contractual services for space planning.

No Federal agency shall, without the written approval of GSA, enter into a contract for interior office design or space layout, with any non-Federal firm or individual. When it is determined that a contract is required, GSA, with the advice of the agency, will enter into the contract and supervise the contractor's performance. The contract will be completely reimbursable by the requesting agency except when it covers the initial space layout.

Subpart 101-17.5—Providing Space in New Public Buildings

§ 101-17.500 Scope of subpart.

This subpart prescribes the procedures and objectives governing space planning for new public buildings.

§ 101-17.501 General.

Modern space layout principles, which contribute to good space management and operational efficiency, are particularly appropriate in the case of new public buildings. Full coordination, strict observance of the design schedule, and followup action are required to insure maximum return to the Government in terms of efficiency and economy.

§ 101-17.502 Responsibility of GSA.

GSA will be responsible for the space planning and layout in all new public buildings. Regional offices of GSA will forward layout plans to occupant agencies for review and coordination and, at the same time, notify the agencies of the date beyond which design changes cannot be accepted.

§ 101-17.503 Responsibility of agencies.

Agencies are responsible for making their needs known to GSA on a timely basis; providing cooperation and assistance if required in the preparation of space layouts; and requesting necessary changes prior to the design cutoff date. (See also § 101-19.204.)

§ 101-17.504 Postoccupancy evaluation.

GSA will conduct a postoccupancy evaluation of major new public buildings approximately 6 months after the date of occupancy. This evaluation, which will take the form of space inspections or space utilization surveys as described in Subpart 101-17.2, Utilization of Space, will be conducted to economy.

Subparts 101-17.6—101-17.46 [Reserved]

Subpart 101-17.47—Exhibits

SOURCE: 45 FR 37203, June 2, 1980, unless otherwise noted.

§ 101-17.4700 Scope of subpart.

This Subpart 101-17.47 illustrates information referred to in the text of Part 101-17 but not suitable for inclusion elsewhere in that part.

§ 101-17.4701 Memorandum of understanding between the U.S. Department of Agriculture and the General Services Administration concerning the location of Federal facilities.

MEMORANDUM OF UNDERSTANDING BETWEEN U.S. DEPARTMENT OF AGRICULTURE AND GENERAL SERVICES ADMINISTRATION CONCERNING THE LOCATION OF FEDERAL FACILITIES

Purpose. The purpose of this Memorandum of Understanding is to provide an effective arrangement whereby the Department of Agriculture and the General Services Administration will cooperate to implement the National Urban Policy. This memorandum requires that in urban areas and incorporated rural communities, offices and facilities of the Department will be located in central business areas whenever such location is consistent with program requirements.

1. The President's March 27, 1978, message on urban policy included a directive to the General Services Administration to retain Federal facilities in urban areas and to put new ones there.

2. On August 16, 1978, the President signed Executive Order 12072, "Federal Space Management" which requires the location of Federal facilities in such a manner as to strengthen the Nation's cities, and mandates that in urban areas first consideration be given to locating Federal facilities in the central business area or adjacent areas of similar character.

3. The Secretary of Agriculture recognizes the significant role the Department can play and the need to assist the Administrator of General Services in carrying out the requirements of Executive Order 12072.

4. The Rural Development Act of 1972, as amended, requires that consideration be given to locating Federal facilities in rural areas. The new Executive Order on Federal Space Management is consistent with the requirements of the Rural Development Act because it concerns the location of agencies subsequent to considering the requirements of the Act.

5. It is the policy of the Department of Agriculture to house within the same building (colocate) the county level offices of the Agricultureal Stabilization and Conservation Service, Cooperative Extension Service, Federal Crop Insurance Corporation, Farmers Home Administration, and Soil Conservation Service, as well as local offices of other Agriculture agencies delivering services at that level. The General Services Administration supports this policy.

6. The Department of Agriculture and the General Services Administration agree that:

a. The program and mission requirements of the agencies of the Department permit most of their offices and facilities above the county level to function suitably in the central business area of the urban areas where they are located. This includes all regional and state offices, certain research facilities, and all agencies whose operations are not affected in the delivery of services by location.

b. First consideration will be given to housing county level field offices in federally controlled space in the central business area of urban areas and incorporated rural communities. However, in cases where federally controlled space is available it must be economically adaptable to meet Agriculture needs in a timely manner (including the total needs for colocated facilities). Otherwise, the primary locational consideration shall be the program requirements of the agencies and accessibility for their clientele. In such instances, the outskirts of the cities and towns are more appropriate for these activities. Additionally, central business district locations are often not suitable for Forest Service District Ranger offices and other offices with special program needs for specific locations, such as plant, grain, animal, meat inspectors, and certain research facilities, or cooperative functions with state and local governments.

7. Therefore, this agreement will govern the acquisition of space by the General Services Administration for the Department of Agriculture, and the Department using its own or delegated leasing authority.

When a variance from this agreement is requested by either agency it shall be the responsibility of the requesting agency to present a compelling and fully substantiated case.

8. The terms "urban area" and "central business area" are used in accordance with the definitions in the Federal Property Management Regulations.

9. This agreement and guidelines shall remain in effect until cancelled by one or both parties on ninety days notice.

10. The parties to this Memorandum of Understanding agree to meet and review this agreement for effectiveness after the conclusion of one year.

Jim Williams,
Acting Secretary of Agriculture.

Dated: October 25, 1979.

R. G. Freeman III,
Administrator of General Services.

Dated: December 29, 1979.

GUIDELINES IN SUPPORT OF MEMORANDUM OF UNDERSTANDING BETWEEN U.S. DEPARTMENT OF AGRICULTURE AND GENERAL SERVICES ADMINISTRATION CONCERNING THE LOCATION OF FEDERAL FACILITIES

The Memorandum of Understanding will permit the Department to support GSA in implementing Executive Order 12072, particularly the requirement to locate Federal facilities in the central business area of communities, while at the same time recognizing the location requirements of certain special facilities and the county level field service offices. This will assist the Department in its colocation policy for county level offices and other local offices of Agriculture agencies delivering service at that level. The objectives of this policy are to:

Provide better service to clients through one stop access and improved office coverage

Increase public participation in conservation and stabilization through increased exposure to the full range of available programs

Disseminate information to more prospective users by directing the clients of one agency to the services of another

Improve the cooperation of Federal, State, and county program administration

Achieve administrative economies

Enable closer coordination of Agriculture county level programs at the delivery point

To achieve these goals, the support of GSA is required by treating these offices as a single unit in leasing actions when requested by the Department.

Because of the differences in the ways in which the involved agencies are required by statute to procure and manage space, accommodations in leasing arrangements and charges are necessary to permit maximum colocation. For example, space for Cooperative Extension Service (CES) is provided or funded by the county government. In cases where CES cannot locate in Federal space, and the Department does not have delegated leasing authority, GSA should, consistent with the Federal Procurement Regulations and the Federal Property Management Regulations, lease space from or through the county in order to permit colocation.

For similar cases in which Agriculture county offices are working through cooperative efforts with State and county counterparts (e.g. Conservation Districts, State Forestry Offices, County Planning Boards, Representative Committees), and the Department does not have delegated leasing authority, GSA should, consistent with the Federal Procurement Regulations and the Federal Property Management Regulations, acquire space to permit the Agriculture offices to be located with these State and local groups.

Agriculture county level office programs are largely service oriented and depend on voluntary public participation for their effectiveness in achieving key national objectives of resource conservation, economic stabilization, and rural development. It is necessary that GSA recognize that location, provision, maintenance, and accessibility of county office facilities have a direct and significant impact on achieving this mission and must be administered accordingly.

Consistent with the Rural Development Act of 1972, as amended, the new Executive Order on Federal Space Management will not be used as a basis for moving Agriculture offices from rural to urban communities.

All Agriculture regional offices, State offices, and certain research facilities, and all agencies whose operations are not affected by location will be located in the central business area of the community in which they are located whenever such location is consistent with program requirements. Exceptions will be considered only on a case-by-case basis where application of this policy represents clearly demonstrable and quantifiable inhibitions to the delivery of program services.

First consideration will be given to housing county level field offices in federally controlled space in the central business district of the community. Exceptions, in addition to lack of sufficient economically adaptable space, must be based on clearly demonstrable inadequacies, such as inadequate parking for clientele, prohibition of trucks and other commercial vehicles on the streets leading to the building, location of the building in a community outside the area being served, failure to meet the handicapped requirements, unsafe or unhealthful working conditions.

§ 101-17.4702 Memorandum of agreement between the General Services Administration and the U.S. Postal Service for implementing the President's urban policy.

AGREEMENT BETWEEN THE GENERAL SERVICES ADMINISTRATION AND THE U.S. POSTAL SERVICE FOR IMPLEMENTING THE PRESIDENT'S URBAN POLICY

GSA—USPS Urban Policy Memorandum of Agreement

Whereas the United States Postal Service, hereafter called USPS, and the General Services Administration, hereafter called GSA, share common goals and common needs in carrying out their missions and in implementing the President's urban policy by locating facilities in Central Business Areas (CBA)of Urban Areas (UA), and, Whereas for the purpose of this agreement a UA means any Standard Metropolitan Statistical Area (SMSA) as defined by the Department of Commerce. An area which is not an SMSA is classified as an urban area if it is one of the following: (1) a geographical area within the jurisdiction of any incorporated city, town, borough, village or other unit of general local government, except county or parish, having a population of ten thousand or more inhabitants; (2) that portion of the geographical area within the jurisdiction of any county, town, township, or similar governmental entity which contains no incorporated unit of general local government but has a population density equal to or exceeding one thousand five hundred inhabitants per square mile; and (3) that portion of any geographical area having a population density equal to or exceeding one thousand five hundred inhabitants per square mile and situated adjacent to the boundary of any incorporated unit general local government which has a population of ten thousand or more inhabitants; and CBA means those areas within a central city in an SMSA or those areas within any non-SMSA urban area which emcompass the community's principal business and commercial activities, and the immediate fringes thereof, as geographically defined in consultation with local officials. A central city means any city whose name appears in the title of an SMSA, and

Whereas GSA and USPS believe that the public welfare can be better served by increased cooperation between the two agencies, and,

Whereas the existing agreement does not cover all areas of agreement and cooperation necessary to promote those goals and needs which are desirable between the two agencies.

Now therefore, USPS and GSA agree to the following principles:

I. In order to better attain the goals of Executive Order 12072, Federal Space Management, and the President's Urban Policy, USPS and GSA agree to take steps to improve coordination of planning activities for new facilities in urban areas, including the following:

A. In planning to construct a facility in a community, USPS and GSA will give preference to locating such facilities in the CBA unless the program requirements of the activities to be housed dictate that the facility be located elsewhere in the urban area.

B. As early as possible in the planning of a project to be satisfied by new construction in a CBA, the planning agency shall notify the other agency of the proposed project. If both USPS and GSA agree that a joint project is economically beneficial, then a determination will immediately be made as to which agency will be responsible for the planning; the basis for this determination will be occupancy in excess of 55% of the proposed space, i.e., unless USPS will occupy over 55% of the net rentable area, GSA will be the owner agency. Regardless of which agency is the owner agency, the tenant agency will guarantee occupancy of the space planned for that agency for a minumum period of 10 years, unless another period of time is mutually agreed upon by both agencies.

(1) General Services Administration. (a) *Projects requiring Congressional approval.* Lease construction projects having an annual net rent of $500,000 or more or Federal construction and repair and alteration projects having a total project cost of $500,000 or more require approval of a prospectus or a Report of Building Project Survey by the Public Works Committees of the Congress.

When such a project is in the preparation stage, GSA's regional office will notify the appropriate USPS regional office that it is contemplating a project in the CBA. If USPS has a long range space requirement that could be satisfied in the CBA, it will advise GSA's regional office so that space may be included in planning the proposed project. When GSA's Central Office submits the prospectus for the proposed project to the Office of Management and Budget for approval and subsequently to the Public Works committees of the Congress for authorization, copies of the prospectus will be funished to the USPS Headquarters office and the appropriate USPS regional office. At any time during the planning and approval process that USPS determines it does not have a requirement for space, the USPS Headquarters office will advise the GSA Central Office of this requirement change. Prior to commencing with the design of the building, the GSA regional office will obtain the final space requirements from the USPS regional office along with a firm commitment to occupy the space for a minimum period of 10 years, or any other time that is mutually agreed upon between the two agencies.

(b) *Projects Not Requiring Congressional approval.* When GSA plans a project not requiring Congressional approval and to be located in the CBA, GSA's regional office will notify the appropriate USPS regional office. If USPS has a long range space need that could be satisfied in the CBA, it will advise GSA's regional office so that space may be included in the proposed project. Prior to GSA soliciting offers requesting firm proposals to lease the required space, the GSA regional office will obtain the final space requirements from the USPS regional office along with a firm commitment to occupy the space for a minimum period of 10 years or as may be mutually agreed upon between the appropriate regional offices of the USPS and GSA.

(2) *United States Postal Service.* (a) Within seven days after approval of the USPS five year budget plan, the Postal Service will provide GSA with a list of approved projects. If GSA wishes to participate in any of the planned projects, GSA will advise USPS of its interest in participation within 90 days after notification by USPS, give an estimate of the amount and type of space required, and will commence necessary studies to develop firm space neeeds.

When GSA indicates an interest in participation, the USPS region which has the responsibility for planning activities shall then coordinate space planning activities with the appropriate GSA Region so that an adequately sized site is acquired for the facility. Prior to commencement of design of the building, GSA shall furnish final space requirements to the USPS and a firm commitment to occupy the space for a minimum period of ten years or any other term that may be mutually agreed upon by both agencies.

(b) During the USPS planning phase of the project the contact point for GSA within the Postal Service will be the Director, Real Estate and Buildings Department, for the USPS region responsible for the planning.

After approval and authorization of funding by the USPS for the project, the USPS point of contact shall remain the same, unless the project has been determined to be a major USPS facility. In such cases the Commissioner, Public Buildings Service at GSA will be notified that the new point of contact will be the Assistant Postmaster General, Real Estate and Buildings Department, United States Postal Service.

C. Both agencies recognize that decisions to occupy space are based on an expected period of occupany. Delays in the planning, approval, funding and start of design phases of a project could alter these decisions. It is therefore agreed that both parties will provide an expected date that space will be available at the time of initial project notifications. Project delays occurring at any time from initial notification through start of design will be reported to the tenant agency and may be cause for cancellation of any commitment to occupy space.

D. When USPS or GSA has control over a site in the UA which is needed by the other agency for a project, the agencies agree to make such sites available to each other to the maximum extent practicable and possible under laws and regulations governing each agency, i.e., one agency acquiring a site by transfer from the other through the land bank or GSA obtaining an assignable option from USPS for a lease construction project.

II. When GSA or USPS seeks leased space, available space in both agencies' inventories shall be considered before any advertisement for privately owned space. If the available space is not acceptable to the acquiring agency then the acquiring agency shall advise the holding agency and allow the holding agency sufficient time to accommodate the acquiring agency's objection, provided the mission need of the tenant agency will not be adversely affected by the delay. If the space would be suitable with alterations which would normally be the responsibility of the owner agency, but the owner agency does not have funds to make those alterations, then the tenant agency may fund the alterations. In such cases, the rent charged the tenant shall be based upon the condition of the space prior to the alterations and the space will not be subject to preemption by the owner agency for a period of 10 years or such other time to which the two agencies shall agree. In any case the period shall be not less than three years.

In the case of renting, the acquiring agency shall guarantee to the holding agency continued occupancy of a period sufficient to amortize construction costs whenever extensive repairs and remodeling are required. Repairs and alterations shall be made in accordance with existing agreements.

III. It is recognized that both agencies have a vested interest in conserving energy Therefore, to ensure that both agencies benefit from the experience and technology of the other, it is agreed that each agency will furnish to the other reports, studies, research, and development data in the field of energy conservation once this information is accepted by the contracting agency. Additionally, internal policies and procedures relating to energy conservation shall be exchanged as they are issued.

IV. Both agencies recognize the National interest in preserving historic buildings, each having several hundred designated historic properties in its inventory. In order to conserve our Nation's cultural heritage it is agreed that as early as possible in the planning process each agency will notify the other as to its need to vacate an historic building so that the other may give proper consideration to acquiring and utilizing such property.

V. It is recognized by both agencies that improved communications between USPS and GSA will benefit not only both agencies, but also all Federal agencies, local jurisdictions, and the general welfare. Many of the misundertandings result from problems and situations which are not covered in the present agreement between the two agencies (dated August 1974). Therefore, it is agreed that the existing agreement shall be amended and approved by both agencies no later than June 30, 1979. It is also agreed that the Commissioner of the Public Buildings Service of GSA and the Assistant Postmaster General, Real Estate and Buildings Department of the United States Postal Service, shall meet annually in September to review the continuing working relationship of the agencies. Such meetings will commence in September 1979.

It is also agreed that the terms of the agreement between GSA and USPS shall be equally binding on both agencies, internal regulations of either agency notwithstanding. In order to maintain continuity and coordination with respect to this agreement, there will be a single point of contact within each agency for all matters pertaining to the relationship between GSA and USPS. That contact shall, in turn, be responsible for coordinating within his respective agency. At GSA, the point of contact will be the Assistant Commissioner for Space Management, Public Buildings Service. At USPS, the point of contact shall be the Director, Office of Real Estate. The point of contact for exchange of project requirements, as specified by sections I and II of this agreement, at the regional level are as follows: the GSA contact shall be the Director, Space Management Division, Public Buildings Service, and the USPS contact shall be the General Manager, Real Estate Division.

VI. Upon signing this memorandum of cooperation agreement, GSA and USPS shall issue appropriate instructions to the field implementing this agreement. The agreement will become effective 90 days after it is signed to allow each agency time to issue the proper implementing instruction.

Jay Solomon,
Administrator.

Dated: March 21, 1979.

William F. Bolger,
Postmaster General.

Dated: March 23, 1979.

Subpart 101-17.48—GSA Regional Offices

§ 101-17.4800 Scope of subpart.

This subpart identifies the regional offices of GSA, describes the geographical areas of jurisdiction, and lists the office address.

§ 101-17.4801 GSA regional offices.

GSA region	Area served	Mailing address
1	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.	General Services Administration, John W. McCormack Post Office and Courthouse, Boston, MA 02109.
2	New Jersey, New York, Puerto Rico, and the Virgin Islands.	General Services Administration, 26 Federal Plaza, New York, NY 10007.
3	Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia.	General Services Administration, Region 3, Washington, DC 20407.
4	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.	General Services Administration, 1776 Peachtree Street NW., Atlanta, GA 30309.
5	Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.	General Services Administration, 219 South Dearborn Street, Chicago, IL 60604.
6	Iowa, Kansas, Missouri, and Nebraska.	General Services Administration, 1500 East Bannister Road, Kansas City, MO 64131.
7	Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.	General Services Administration, 819 Taylor Street, Fort Worth, TX 76102.
8	Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.	General Services Administration, Building 41, Denver Federal Center, Denver, CO 80225.
9	Arizona, California, Hawaii, and Nevada.	General Services Administration, 525 Market Street, San Francisco, CA 94105.
10	Alaska, Idaho, Oregon, and Washington.	General Services Administration, GSA Center, Auburn, WA 98002.

Subpart 101-17.49—Forms

§ 101-17.4900 Scope of subpart.

This subpart contains information on forms that pertain to the assignment and utilization of space and instructions in their use.

§ 101-17.4901 Standard forms.

(a) Forms referenced to this § 101-17.4901 are Government standard forms. The subsection numbers in this section correspond with the standard form numbers.

(b) Supplies of standard forms can be obtained from the nearest GSA supply distribution facility.

§ 101-17.4901-81 Standard Form 81, Request for Space.

NOTE: Form filed as part of original document.

§ 101-17.4902 GSA forms.

(a) Forms referenced to this § 101-17.4902 are GSA forms. The subsection numbers in this section correspond to the GSA form number.

(b) Agencies may obtain their initial supply of GSA forms from General Services Administration (3BRDD), Union and Franklin Streets Annex, Building 11, Alexandria, VA 22314. Agency field offices should submit all future requirements to their Washington headquarters office which will forward consolidated annual requirements to the General Services Administration (BRAF), Washington, D.C. 20405.

§ 101-17.4902-144 GSA Form 144, Space Requirements.

NOTE: Form filed as part of original document.

PART 101-18—ACQUISITION OF REAL PROPERTY

Sec.
101-18.000 Scope of part.
101-18.001 Authority.
101-18.002 Basic policy.
101-18.003 Definitions.
101-18.003-1 Act.
101-18.003-1a GSA.
101-18.003-2 Uneconomic remnant.
101-18.003-3 Person.
101-18.003-4 Displaced person.
101-18.003-5 Business.
101-18.003-6 Farm operation.
101-18.003-7 Mortgage.
101-18.003-8 Comparable replacement dwelling.
101-18.003-9 Initiation of negotiations.
101-18.003-10 Owner.
101-18.003-11 Dwelling.
101-18.003-12 Nonprofit organization.
101-18.003-13 Existing patronage.
101-18.003-14 Family.
101-18.003-15 Moving and related expense payments.
101-18.003-16 Replacement housing payments.
Sec.
101-18.003-17 Replacement rental payments.
101-18.003-18 Notice of displacement.
101-18.003-19 Economic rent.

Subpart 101-18.1—Acquisition by Lease

101-18.100 Basic policy.
101-18.101 Acquisition by GSA.
101-18.102 Acquisition by other agencies.
101-18.103 Agency cooperation.
101-18.104 Delegation of leasing authority.
101-18.104-1 List of special purpose space.
101-18.105 Limitations on the use of delegated authority.
101-18.106 Contingent fees and related procedure.
101-18.107 Application of socioeconomic considerations.

Subpart 101-18.2—Acquisition by Purchase or Condemnation

101-18.200 Purpose.
101-18.201 Basic acquisition policy.
101-18.202 Expenses incidental to transfer.
101-18.203 Litigation expenses.

Subpart 101-18.3—Relocation Assistance and Payments

101-18.300 Purpose.
101-18.301 Basic policy.
101-18.302 Right of appeal.
101-18.303 General criteria for decent, safe, and sanitary housing.
101-18.303-1 Sleeping rooms.
101-18.303-2 Application of local code standards.
101-18.303-3 Exceptions.
101-18.304 Multiple occupancy.
101-18.305 Moving and related expenses.
101-18.305-1 Limitations.
101-18.305-2 Exclusions.
101-18.305-3 Direct losses.
101-18.305-4 Expenses in searching for a replacement business or farm.
101-18.305-5 Scheduled payments.
101-18.305-6 Fixed payments for displaced businesses or farms.
101-18.305-7 Advance payments in hardship cases.
101-18.306 Replacement housing payments.
101-18.306-1 Eligibility.
101-18.306-2 Computation of replacement housing payment.
101-18.306-3 Upper limit of replacement housing payment.
101-18.306-4 Notice of initiation of negotions.
101-18.307 Replacement rental payments.
101-18.307-1 Eligibility.
101-18.307-2 Owner-occupant who elects to rent.

Sec.
101-18.307-3 Computation of renter's replacement rental payment.
101-18.307-4 Computation of purchaser's replacement rental payment.
101-18.307-5 Time limit for filing claims.
101-18.308 Relocation assistance advisory services.
101-18.309 Availability determination.
101-18.310 Housing replacement as a last resort.
101-18.311 Planning and other preliminary expenses for additional housing.
101-18.312 Applicability to the acquisition of leasehold interest.

AUTHORITY: 63 Stat. 377 (40 U.S.C. 304c, 471, 490, 601-615); 73 Stat. 479; (40 U.S.C. 490 note); (42 U.S.C. 4201-4244); (40 U.S.C. 531-535); E.O. 11512, 35 FR 3979; 84 Stat. 1894, unless otherwise noted.

SOURCE: 39 FR 23202, June 27, 1974, unless otherwise noted.

§ 101-18.000 Scope of part.

This part prescribes policies and procedures governing acquisition of interests in real property.

§ 101-18.001 Authority.

This part implements the applicable provisions of the Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 377 (40 U.S.C. 471 and 490); the Act of August 27, 1935 (40 U.S.C. 304c); the Public Buildings Act of 1959, as amended (40 U.S.C. 601-615), 73 Stat. 479; Reorganization Plan No. 18 of 1950 (40 U.S.C. 490 note); the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4201-4244; 40 U.S.C. 531-535); Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601); Executive Order 12072 of August 16, 1978 (43 FR 36869); the Public Buildings Cooperative Use Act of 1976 (90 Stat. 2507); the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894; the Rural Development Act of 1972, 86 Stat. 657, as amended; and OMB Circular A-95 (41 FR 2052).

[45 FR 37206, June 2, 1980]

§ 101-18.002 Basic policy.

GSA will lease space in privately owned buildings when needs cannot be met in Government-controlled space; acquire and manage sites for public buildings and assist agencies to acquire sites to meet program requirements; acquire real property by voluntary conveyance, or, when necessary, by condemnation, and provide relocation assistance in real property acquisitions.

§ 101-18.003 Definitions.

The following definitions are established for terms used in this Subchapter D.

§ 101-18.003-1 Act.

"Act" means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646), approved January 2, 1971.

§ 101-18.003-1a GSA.

"GSA" means General Services Administration's Public Buildings Service throughout this part.

§ 101-18.003-2 Uneconomic remnant.

"Uneconomic remnant" means that portion of an ownership remaining after acquisition, the retention of which provides no benefit to the owner because of loss or difficulty of access, a changed highest and best use, remoteness, or any other reason resulting in burdening the owner thereof with expenses or responsibilities not commensurate with retention of ownership.

§ 101-18.003-3 Person.

"Person" means any individual, partnership, corporation, or association.

§ 101-18.003-4 Displaced person.

(a) "Displaced person" means any person who on or after January 2, 1971, moves from real property or moves his personal property from real property as a result of:

(1) The acquisition of that real property by GSA in whole or in part; or

(2) Receipt from GSA of a written notice of displacement under a program or project undertaken by a Federal agency or with Federal financial assistance.

(b) For purposes of receiving moving and related expenses payments and receiving relocation advisory assistance, a displaced person also is a person meeting the provisions of this section who conducts a business or farm operation on such real property.

(c) For purposes of qualifying for relocation benefits as provided in this Part 101-18, a displaced person is a person who moves as the result of the notice referenced in § 101-18.003-4(a)(2) regardless of whether his real property is actually acquired.

§ 101-18.003-5 Business.

"Business" means any lawful activity except a farm operation conducted primarily:

(a) For the purchase, sale, lease, or rental of personal and real property and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

(b) For the sale of services to the public;

(c) By a nonprofit organization; or

(d) For (in accordance with section 202(a) of the Act) assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

§ 101-18.003-6 Farm operation.

"Farm operation" means any activity conducted mainly or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

§ 101-18.003-7 Mortgage.

"Mortgage" means such classes of liens as are commonly given to secure advances on or the unpaid purchase price of real property under the laws of the State in which the real property is located, with any credit instruments secured thereby.

§ 101-18.003-8 Comparable replacement dwelling.

"Comparable replacement dwelling" means a dwelling which, when compared with the dwelling being taken, is:

(a) Decent, safe, and sanitary (sound, clean, weathertight), and meets local housing codes and criteria specified in § 101-18.303.

(b) Functionally equivalent and substantially the same with respect to age, construction, state of repair, number of rooms, and square feet of living area.

(c) Open to all persons and meets the provisions of Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284).

(d) Located in an area not generally less desirable than the dwelling to be acquired regarding the neighborhood, public utilities, and commercial facilities and is reasonably accessible to the displaced person's place of employment.

(e) Available on the market and within the financial means of the displaced person or family.

(f) Adequate to accommodate the displaced person.

§ 101-18.003-9 Initiation of negotiations.

"Initiation of negotiations" means the date on which an official representative of GSA makes the first personal contact with an owner (or his duly authorized representative) of real property to be acquired by GSA and furnishes him with a written offer to purchase the property.

§ 101-18.003-10 Owner.

"Owner" means person (or persons) who:

(a) Holds the fee title, a life estate, or a 99-year lease; or

(b) Has an interest in a cooperative housing project which includes the right of occupancy of a dwelling unit; or

(c) Is the contract purchaser of any such estates or interests listed in paragraph (a) of this section; or

§ 101-18.003-11 Dwelling.

"Dwelling" means the place of permanent or customary and usual abode of a person. It includes a single-family building, a one-family unit in a multifamily building, a unit of a condominium or cooperative housing project, or any other residential unit, including a mobile home which either is considered to be real property under State law, cannot be moved without substantial damage or unreasonable cost, or is a decent, safe, and sanitary dwelling.

§ 101-18.003-12 Nonprofit organization.

"Nonprofit organization" means a corporation, partnership, individual, or other public or private entity engaged in a business, professional, or instructional activity on a nonprofit basis, necessitating fixtures, equipment, stock-in-trade, or other tangible property for the carrying on of the business, professional, or institutional activity on the premises.

§ 101-18.003-13 Existing patronage.

"Existing patronage" is the annual average dollar volume of business transacted during the 2 taxable years immediately preceding the taxable year in which the business is relocated.

§ 101-18.003-14 Family.

"Family" means two or more individuals living together in the same dwelling who are related to each other by blood, marriage, adoption, legal guardianship, or operation of law.

§ 101-18.003-15 Moving and related expense payments.

"Moving and related expense payments" means those payments authorized by section 202 of the Act.

§ 101-18.003-16 Replacement housing payments.

"Replacement housing payments" means those payments authorized by section 203 of the Act.

§ 101-18.003-17 Replacement rental payments.

"Replacement rental payments" means those payments authorized by section 204 of the Act.

§ 101-18.003-18 Notice of displacement.

"Notice of displacement" means a written notice to vacate real property given by GSA generally 90 days prior to the date of vacation.

§ 101-18.003-19 Economic rent.

"Economic rent" means the amount of rent a displaced occupant would have to pay for a similar dwelling unit in areas not generally less desirable than the dwelling unit to be acquired by the Government.

Subpart 101-18.1—Acquisition by Lease

§ 101-18.100 Basic policy.

(a) To the maximum extent practical, GSA will lease space in privately owned buildings and land when needs cannot be satisfactorily met in Government-controlled space, when leasing proves to be more efficient than the construction or alteration of a Federal building, or when construction or alteration is not warranted because requirements in the community are insufficient or are indefinite in scope or duration, or completion of a new building within a reasonable time cannot be insured.

(b) Acquisition of space by lease will be on the basis most favorable to the Government, with due consideration to maintenance and operational efficiency, and only at charges consistent with prevailing scales in the community for comparable facilities.

(c) Acquisition of space by lease will be by negotiation except where all the factors are present which will permit true competition and where the formal sealed bid method is required by law. In negotiating, competition will be obtained to the maximum extent practical among suitable available locations meeting minimum Government requirements.

(d) When considering acquisition or when acquiring space by lease, and subject to the provisions of § 101-17.002 regarding determination of the location of Federal facilities shall be strictly adhered to.

(e) Lease-construction projects required to be authorized in accordance with or in the manner provided by the provisions of the Public Buildings Act of 1959 will be, to the greatest extent practicable, consistent with State, regional, and local plans, programs, and local zoning regulations; and Governors, local elected officials, and regional comprehensive planning agencies will be consulted in the planning of the proposed development of such Federal facilities.

[39 FR 23202, June 27, 1974, as amended at; 45 FR 37206, June 2, 1980]

§ 101-18.101 Acquisition by GSA.

(a) GSA will perform all functions of leasing building space, and land incidental thereto, for Federal agencies except as provided in this Subpart 101-18.1.

(b) Agencies authorized to acquire space by lease may request GSA to perform such leasing functions in specific instances.

(c) Officials or employes of agencies for which GSA will acquire leased space shall at no time, before or after a space request is submitted to GSA or after a lease agreement is made, directly or indirectly contact lessors, offerors, or potential offerors for the purpose of making oral or written representation or commitments or agreements with respect to the terms of occupancy of particular space, tenant improvements, alterations and repairs, or payment for overtime services, unless authorized by the Director of the Space Management Division in the responsible GSA regional office. Unauthorized contacts frequently frustrate or compromise GSA's ability to effectuate lease contracts which are in the best interest of the Government. Consequently, when it is ascertained by GSA that an unauthorized contact has been made, lease acquisition action may be deferred until its nature and impact can be determined. Whenever an unauthorized contact is judged by the responsible GSA leasing official to be detrimental to the Government's interest, further leasing action will be suspended for such time as may be required to eliminate or minimize the detrimental impact. Lessors, offerors, or potential offerors, or their agents, shall be referred to the Chief, Acquisition Branch, PBS, of the appropriate GSA regional office.

[39 FR 23202, June 27, 1974, as amended at 42 FR 9666, Feb. 17, 1977]

§ 101-18.102 Acquisition by other agencies.

(a) The Departments of Agriculture, Commerce, and Defense may lease their own building space, and land incidental to its use, and provide for its operation, maintenance, and custody when the space is situated outside an urban center. Urban centers are:

Aberdeen, S. Dak.:
  Brown County.
Abilene, Tex.:
  Jones County.
  Taylor County.

- Akron, Ohio:
  - Portage County.
  - Summit County.
- Alaska:
  - The entire State.
- Albany, Ga.:
  - Dougherty County.
- Albany, Ill.:
  - Whiteside County.
- Albany, Oreg.:
  - Linn County.
- Albany-Schenectady-Troy, N.Y.:
  - Albany County.
  - Rensselaer County.
  - Saratoga County.
  - Schenectady County.
- Albuquerque, N. Mex.:
  - Bernalillo County.
- Alexandria, La.:
  - Rapides Parish.
- Allentown-Bethlehem-Easton, Pa.-N.J.:
  - Lehigh County, Pa.
  - Northampton County, Pa.
  - Warren County, N.J.
- Altoona, Pa.:
  - Blair County.
- Amarillo, Tex.:
  - Potter County.
  - Randall County.
- Anaheim-Santa Ana-Garden Grove, Calif.:
  - Orange County.
- Ann Arbor, Mich.:
  - Washtenaw County.
- Asheville, N.C.:
  - Buncombe County.
- Athens, Ga.:
  - Clarke County.
- Atlanta, Ga.:
  - Clayton County.
  - Cobb County.
  - De Kalb County.
  - Fulton County.
  - Gwinnett County.
- Atlantic City, N.J.:
  - Atlantic County.
- Augusta, Ga.-S.C.:
  - Richmond County, Ga.
  - Aiken County, S.C.
- Augusta, Maine:
  - Kennebec County.
- Austin, Tex.:
  - Travis County.
- Bakersfield, Calif.:
  - Kern County.
- Baltimore, Md.:
  - Baltimore City.
  - Anne Arundel County.
  - Baltimore County.
  - Carroll County.
  - Howard County.
- Baton Rouge, La.:
  - East Baton Rouge Parish.
- Battle Creek, Mich.:
  - Calhoun County.
- Bay City, Mich.:
  - Bay County.
- Beaumont-Port Arthur, Tex.:
  - Jefferson County.
  - Orange County.
- Billings, Mont.:
  - Yellowstone County.
- Binghamton, N.Y.-Pa.:
  - Broome County, N.Y.
  - Tioga County, N.Y.
  - Susquehanna County, Pa.
- Birmingham, Ala.:
  - Jefferson County.
- Bismarck, N. Dak.:
  - Burleigh County.
- Boise, Idaho:
  - Ada County.
- Boston, Mass.:
  - Essex County.
  - Middlesex County.
  - Norfolk County.
  - Plymouth County.
  - Suffolk County.
- Bridgeport, Conn.:
  - Fairfield County.
  - New Haven County.
- Brockton, Mass.:
  - Bristol County.
  - Norfolk County.
  - Plymouth County.
- Brownsville-Harlingen-San Benito, Tex.:
  - Cameron County.
- Buffalo, N.Y.:
  - Erie County.
  - Niagara County.
- Burlington, Vt.:
  - Chittenden County.
- Butte, Mont.:
  - Silver Bow County.
- Calexico-El Centro, Calif.:
  - Imperial County.
- Canton, Ohio:
  - Stark County.
- Casper, Wyo.:
  - Narrona County.
- Cedar Rapids, Iowa:
  - Linn County.
- Champaign-Urbana, Ill.:
  - Champaign County.
- Charleston, S.C.:
  - Berkeley County.
  - Charleston County.
- Charleston, W. Va.:
  - Kanawha County.
- Charlotte, N.C.
  - Mecklenburg County.
  - Union County.
- Charlottesville, Va.:
  - Charlottesville City.
  - Albemarle County.
- Chattanooga, Tenn.-Ga.:
  - Hamilton County, Tenn.
  - Walker County, Ga.
- Cheyenne, Wyo.:
  - Laramie County.
- Chicago, Ill.:
  - Cook County.
  - Du Page County.

Chicago, Ill.—Continued
  Kane County.
  Lake County.
  McHenry County.
  Will County.
Cincinnati, Ohio-Ky-Ind.:
  Clermont County, Ohio.
  Hamilton County, Ohio.
  Warren County, Ohio.
  Boone County, Ky.
  Campbell County, Ky.
  Kenton County, Ky.
  Dearborn County, Ind.
Cleveland, Ohio:
  Cuyahoga County.
  Geauga County.
  Lake County.
  Medina County.
Clinton, Okla.:
  Custer County.
Cody, Wyo.:
  Park County.
Colorado Springs, Colo.:
  El Paso County.
Columbia, Mo.:
  Boone County.
Columbia, S.C.:
  Lexington County.
  Richland County.
Columbus, Ga.-Ala.:
  Chattahoochee County, Ga.
  Muscogee County, Ga.
  Russell County, Ala.
Columbus, Ohio:
  Delaware County.
  Franklin County.
  Pickaway County.
Concord, N.H.:
  Merrimack County.
Corpus Christi, Tex.:
  Nueces County.
Dallas, Tex.:
  Collin County.
  Dallas County.
  Denton County.
  Ellis County.
Davenport-Rock Island-Moline, Iowa-Ill.:
  Scott County, Iowa.
  Henry County, Ill.
  Rock Island County, Ill.
Dayton, Ohio:
  Greene County.
  Miami County.
  Montgomery County.
  Preble County.
Decatur, Ill.:
  Macon County.
Denver, Colo.:
  Adams County.
  Arapahoe County.
  Boulder County.
  Denver County.
  Jefferson County.
Des Moines, Iowa:
  Polk County.
Detroit, Mich.:
  Macomb County.

Detroit, Mich.—Continued
  Oakland County.
  Wayne County.
Dubuque, Iowa:
  Dubuque County.
Duluth-Superior, Minn.-Wis.:
  St. Louis County, Minn.
  Douglas County, Wis.
Durango, Colo.:
  La Plata County.
Durham, N.C.:
  Durham County.
Elkins, W. Va.:
  Randolph County.
El Paso, Tex.:
  El Paso County.
Erie, Pa.:
  Erie County.
Eugene, Oreg.:
  Lane County.
Evansville, Ind.-Ky.:
  Vanderburgh County, Ind.
  Warrick County, Ind.
  Henderson County, Ky.
Fall River, Mass.-R.I.:
  Bristol County, Mass.
  Newport County, R.I.
Fargo-Moorhead, N. Dak.-Minn.:
  Cass County, N. Dak.
  Clay County, Minn.
Fayetteville, N.C.:
  Cumberland County.
Fitchburg-Leominster, Mass.:
  Middlesex County.
  Worcester County.
Flint, Mich.:
  Genesee County.
  Lapeer County.
Fort Collins, Colo.:
  Larimer County.
Fort Lauderdale-Hollywood, Fla.:
  Broward County.
Fort Smith, Ark.-Okla.:
  Crawford County, Ark.
  Sebastian County, Ark.
  Le Flore County, Okla.
  Sequoyah County, Okla.
Fort Wayne, Ind.:
  Allen County.
Fort Worth, Tex.:
  Johnson County.
  Tarrant County.
Frankfort, Ky.:
  Franklin County.
Fresno, Calif.:
  Fresno County.
Gadsden, Ala.:
  Etowah County.
Gainesville, Fla.:
  Alachua County.
Galveston-Texas City, Tex.:
  Galveston County.
Gary-Hammond-East Chicago, Ind.:
  Lake County.
  Porter County.
Grand Forks, N. Dak.:
  Grand Forks County.

Grand Island, Nebr.:
  Hall County.
Grand Junction, Colo.:
  Mesa County.
Grand Rapids, Mich.:
  Kent County.
  Ottawa County.
Great Falls, Mont.:
  Cascade County.
Greeley, Colo.:
  Weld County.
Green Bay, Wis.:
  Brown County.
Greensboro-High Point, N.C.:
  Guilford County.
Greenville, S.C.:
  Greenville County.
  Pickens County.
Greenwood, Miss.:
  Le Flore County.
Hamilton-Middletown, Ohio:
  Butler County.
Harrisburg, Pa.:
  Cumberland County.
  Dauphin County.
  Perry County.
Hartford, Conn.:
  Hartford County.
  Middlesex County.
  Tolland County.
Hawaii:
  The entire State.
Helena, Mont.:
  Lewis and Clark County.
Hot Spring, Ark.:
  Garland County.
Houston, Tex.:
  Harris County.
Huntington-Ashland, W. Va.-Ky.-Ohio:
  Cabell County, W. Va.
  Wayne County, W. Va.
  Boyd County, Ky.
  Lawrence County, Ohio.
Huntsville, Ala.:
  Limestone County.
  Madison County.
Huron, S. Dak.:
  Beadle County.
Idaho Falls, Idaho:
  Bonneville County.
Indianapolis, Ind.:
  Hamilton County.
  Hancock County.
  Hendricks County.
  Johnson County.
  Marion County.
  Morgan County.
  Shelby County.
Jackson, Mich.:
  Jackson County.
Jackson, Miss.:
  Hinds County.
  Rankin County.
Jackson, Tenn.:
  Madison County.
Jacksonville, Fla.:
  Duval County.
Jefferson City, Mo.:
  Cole County.
Jersey City, N.J.:
  Hudson County.
Johnstown, Pa.:
  Cambria County.
  Somerset County.
Kalamazoo, Mich.:
  Kalamazoo County.
Kansas City, Mo.-Kans.:
  Cass County, Mo.
  Clay County, Mo.
  Jackson County, Mo.
  Platte County, Mo.
  Johnson County, Kans.
  Wyandotte County, Kans.
Kenosha, Wis.:
  Kenosha County.
Klamath Falls, Oreg.:
  Klamath County.
Knoxville, Tenn.
  Anderson County.
  Blount County.
  Knox County.
Lafayette, La.:
  Lafayette Parish.
Lake Charles, La.:
  Calcasieu Parish.
Lancaster, Pa.:
  Lancaster County.
Lansing, Mich.:
  Clinton County.
  Eaton County.
  Ingham County.
Laredo, Tex.:
  Webb County.
Las Vegas, Nev.:
  Clark County.
Lawrence-Haverhill, Mass.-N.H.:
  Essex County, Mass.
  Rockingham County, N.H.
Lawton, Okla.:
  Comanche County.
Lewiston-Auburn, Maine:
  Androscoggin County.
Lexington, Ky.:
  Fayette County.
Lima, Ohio:
  Allen County.
Lincoln, Nebr.:
  Lancaster County.
Little Rock-North Little Rock, Ark.:
  Pulaski County.
Logan, Utah:
  Cache County.
Lorain-Elyria, Ohio:
  Lorain County.
Los Angeles-Long Beach, Calif.:
  Los Angeles County.
Louisville, Ky.-Ind.:
  Jefferson County, Ky.
  Clark County, Ind.
  Floyd County, Ind.
Lowell, Mass.:
  Middlesex County.

- Lubbock, Tex.:
  - Lubbock County.
- Lynchburg, Va.:
  - Lynchburg City.
  - Amherst County.
  - Campbell County.
- Macon, Ga.:
  - Bibb County.
  - Houston County.
- Madison, Wis.:
  - Dane County.
- Manchester, N.H.:
  - Hillsborough County.
  - Merrimack County.
- Manhattan, Kans.:
  - Riley County.
- McCook, Nebr.:
  - Red Willow County.
- Medford, Oreg.:
  - Jackson County.
- Memphis, Tenn.-Ark.:
  - Shelby County, Tenn.
  - Crittenden County, Ark.
- Meriden, Conn.:
  - New Haven County.
- Meridian, Miss.:
  - Lauderdale County.
- Miami, Fla.:
  - Dade County.
- Midland, Tex.:
  - Midland County.
- Milwaukee, Wis.:
  - Milwaukee County.
  - Ozaukee County.
  - Waukesha County.
- Minneapolis-St. Paul, Minn.:
  - Anoka County.
  - Dakota County.
  - Hennepin County.
  - Ramsey County.
  - Washington County.
- Missoula, Mont.:
  - Missoula County.
- Mobile, Ala.:
  - Baldwin County.
  - Mobile County.
- Monroe, La.:
  - Ouachita Parish.
- Montgomery, Ala.:
  - Elmore County.
  - Montgomery County.
- Morgantown, W. Va.:
  - Monongalia County.
- Muncie, Ind.:
  - Delaware County.
- Muskegon-Muskegon Heights, Mich.:
  - Muskegon County.
- Muskogee, Okla.:
  - Muskogee County.
- Nashville, Tenn.:
  - Davidson County.
  - Sumner County.
  - Wilson County.
- Newark, N.J.:
  - Essex County.
  - Morris County.
  - Union County.
- New Bedford, Mass.:
  - Bristol County.
  - Plymouth County.
- New Britain, Conn.:
  - Hartford County.
- New Haven, Conn.:
  - New Haven County.
- New London-Groton-Norwich, Conn.:
  - New London County.
- New Orleans, La.:
  - Jefferson Parish.
  - Orleans Parish.
  - St. Bernard Parish.
  - St. Tammany Parish.
- Newport News-Hampton, Va.:
  - Hampton City.
  - Newport News City.
  - York County.
- New York, N.Y.:
  - Bronx County.
  - Kings County.
  - New York County.
  - Queens County.
  - Richmond County.
  - Nassau County.
  - Rockland County.
  - Suffolk County.
  - Westchester County.
- Norfolk-Portsmouth, Va.:
  - Chesapeake City.
  - Norfolk City.
  - Portsmouth City.
  - Virginia Beach City.
- Norwalk, Conn.:
  - Fairfield County.
- Odessa, Tex.:
  - Ector County.
- Ogden, Utah:
  - Weber County.
- Oklahoma City, Okla.:
  - Canadian County.
  - Cleveland County.
  - Oklahoma County.
- Olympia, Wash.:
  - Thurston County.
- Omaha, Nebr.-Iowa:
  - Douglas County, Nebr.
  - Sarpy County, Nebr.
  - Pottawattamie County, Iowa.
- Orlando, Fla.:
  - Orange County.
  - Seminole County.
- Parkersburg, W. Va.:
  - Wood County.
- Paterson-Clifton-Passaic, N.J.:
  - Bergen County.
  - Passaic County.
- Pensacola, Fla.:
  - Escambia County.
  - Santa Rosa County.
- Peoria, Ill.:
  - Peoria County.
  - Tazewell County.
  - Woodford County.

Philadelphia, Pa.-N.J.:
  Bucks County, Pa.
  Chester County, Pa.
  Delaware County, Pa.
  Montgomery County, Pa.
  Philadelphia County, Pa.
  Burlington County, N.J.
  Camden County, N.J.
  Gloucester County, N.J.
Phoenix, Ariz.:
  Maricopa County.
Pierre, S. Dak.:
  Hughes County.
Pittsburgh, Pa.:
  Allegheny County.
  Beaver County.
  Washington County.
  Westmoreland County.
Pittsfield, Mass.:
  Berkshire County.
Portland, Maine:
  Cumberland County.
Portland, Oreg.-Wash.:
  Clackamas County, Oreg.
  Multnomah County, Oreg.
  Washington County, Oreg.
  Clark County, Wash.
Portsmouth, N.H.:
  Rockingham County.
Providence-Pawtucket-Warwick, R.I.-Mass.:
  Bristol County, R.I.
  Kent County, R.I.
  Newport County, R.I.
  Providence County, R.I.
  Washington County, R.I.
  Bristol County, Mass.
  Norfolk County, Mass.
  Worcester County, Mass.
Provo-Orem, Utah:
  Utah County.
Pueblo, Colo.:
  Pueblo County.
Puerto Rico:
  The entire Commonwealth.
Racine, Wis.:
  Racine County.
Raleigh, N.C.:
  Wake County.
Rapid City, S. Dak.:
  Pennington County.
Reading, Pa.:
  Berks County.
Reno, Nev.:
  Washoe County.
Richmond, Va.:
  Richmond city.
  Chesterfield County.
  Hanover County.
  Henrico County.
Roanoke, Va.:
  Roanoke city.
  Roanoke County.
Rochester, N.Y.:
  Livingston County.
  Monroe County.
  Orleans County.
  Wayne County.
Rockford, Ill.:
  Boone County.
  Winnebago County.
Rolla, Mo.:
  Phelps County.
Rome, Ga.:
  Floyd County.
Sacramento, Calif.:
  Placer County.
  Sacramento County.
  Yolo County.
Saginaw, Mich.:
  Saginaw County.
St. Albans, Vt.:
  Franklin County.
St. Joseph, Mo.:
  Buchanan County.
St. Louis, Mo.-Ill.:
  St. Louis City, Mo.
  Jefferson County, Mo.
  St. Charles County, Mo.
  St. Louis County, Mo.
  Madison County, Ill.
  St. Clair County, Ill.
Salem, Oreg.:
  Marion County.
  Polk County.
Salina, Kans.:
  Saline County.
Salisbury, Md.:
  Wicomico County.
Salt Lake City, Utah:
  Davis County.
  Salt Lake County.
San Angelo, Tex.:
  Tom Green County.
San Antonio, Tex.:
  Bexar County.
  Guadalupe County.
San Bernardino-Riverside-Ontario, Calif.:
  Riverside County.
  San Bernardino County.
San Diego, Calif.:
  San Diego County.
San Francisco-Oakland, Calif.:
  Alameda County.
  Contra Costa County.
  Marin County.
  San Francisco County.
  San Mateo County.
San Jose, Calif.:
  Santa Clara County.
Santa Barbara, Calif.:
  Santa Barbara County.
Santa Fe, N. Mex.:
  Santa Fe County.
Savannah, Ga.:
  Chatham County.
Scottsbluff, Nebr.:
  Scotts Bluff County.
Scranton, Pa.:
  Lackawanna County.
Seattle-Everett, Wash.:
  King County.
  Snohomish County.
Sheridan, Wyo.:
  Sheridan County.

- Shreveport, La.:
  - Bossier Parish.
  - Caddo Parish.
- Sioux City, Iowa-Nebr.:
  - Woodbury County, Iowa.
  - Dakota County, Nebr.
- Sioux Falls, S. Dak.:
  - Minnehaha County.
- South Bend, Ind.:
  - St. Joseph County.
  - Marshall County.
- Spartanburg, S.C.:
  - Spartanburg County.
- Spokane, Wash.:
  - Spokane County.
- Springfield-Chicopee-Holyoke, Mass.:
  - Hampden County, Mass.
  - Hampshire County, Mass.
  - Worcester County, Mass.
- Springfield, Ill.:
  - Sangamon County.
- Springfield, Mo.:
  - Greene County.
- Springfield, Ohio:
  - Clark County.
- Stamford, Conn.:
  - Fairfield County.
- Steubenville-Wierton, Ohio-W. Va.:
  - Jefferson County, Ohio.
  - Brooke County, W. Va.
  - Hancock County, W. Va.
- Stillwater, Okla.:
  - Payne County.
- Stockton, Calif.:
  - San Joaquin County.
- Syracuse, N.Y.:
  - Madison County.
  - Onondaga County.
  - Oswego County.
- Tacoma, Wash.:
  - Pierce County.
- Tallahassee, Fla.:
  - Leon County.
- Tampa-St. Petersburg, Fla.:
  - Hillsborough County.
  - Pinellas County.
- Temple, Tex.:
  - Bell County.
- Terre Haute, Ind.:
  - Clay County.
  - Sullivan County.
  - Vermillion County.
  - Vigo County.
- Texarkana, Tex.-Ark.:
  - Bowie County, Tex.
  - Miller County, Ark.
- Toledo, Ohio-Mich.:
  - Lucas County, Ohio.
  - Wood County, Ohio.
  - Monroe County, Mich.
- Topeka, Kans.:
  - Shawnee County.
- Trenton, N.J.:
  - Mercer County.
- Tucson, Ariz.:
  - Pima County.
- Tulsa, Okla.:
  - Creek County.
  - Osage County.
  - Tulsa County.
- Tuscaloosa, Ala.:
  - Tuscaloosa County.
- Tyler, Tex.:
  - Smith County.
- Utica-Rome, N.Y.:
  - Herkimer County.
  - Oneida County.
- Vallejo-Napa, Calif.:
  - Napa County.
  - Solano County.
- Vicksburg, Miss.:
  - Warren County.
- Virgin Islands:
  - The entire Territory.
- Waco, Tex.:
  - McLennan County.
- Walla Walla, Wash.:
  - Walla Walla County.
  - Benton County.
- Washington, D.C.-Md.-Va.:
  - District of Columbia.
  - Montgomery County, Md.
  - Prince Georges County, Md.
  - Alexandria city, Va.
  - Fairfax city, Va.
  - Falls Church city, Va.
  - Arlington County, Va.
  - Fairfax County, Va.
- Waterbury, Conn.:
  - Litchfield County.
  - New Haven County.
- Waterloo, Iowa:
  - Black Hawk County.
  - Wenatchee, Wash.:
  - Chelan County.
- West Palm Beach, Fla.:
  - Palm Beach County.
- Wheeling, W. Va.-Ohio:
  - Marshall County, W. Va.
  - Ohio County, W. Va.
  - Belmont County, Ohio.
- Wichita, Kans.:
  - Butler County.
  - Sedgwick County.
- Wichita Falls, Tex.:
  - Archer County.
  - Wichita County.
- Wilkes Barre-Hazleton, Pa.:
  - Luzerne County.
- Wilmington, Del.-N.J.-Md.:
  - New Castle County, Del.
  - Salem County, N.J.
  - Cecil County, Md.
- Wilmington, N.C.:
  - New Hanover County.
- Winston-Salem, N.C.:
  - Forsyth County.
- Worcester, Mass.:
  - Worcester County.
- Yakima, Wash.:
  - Yakima County.

York, Pa.:
  Adams County.
  York County.
Youngstown-Warren, Ohio:
  Mahoning County.
  Trumbull County.
Yuma, Ariz.:
  Yuma County.

(b) The Department of the Treasury may lease building space and land incidental thereto for the use of the Comptroller of the Currency and provide for its operation, maintenance, and custody.

(c) The Tennessee Valley Authority may lease building space and land incidental thereto and provide for its operation, maintenance, and custody.

(d) The National Aeronautics and Space Administration may lease building space and land incidental thereto and provide for its operation, maintenance, and custody outside the District of Columbia.

(e) A Federal agency may lease space in buildings and land incidental thereto, for its use when:

(1) The space is located in any foreign country;

(2) The space is in buildings which are located on the grounds of any fort, camp, post, arsenal, Navy Yard, naval training station, airfield, proving ground, military supply depot, or school, or of any similar facility, of the Department of Defense, unless and to such extent as a permit for its use shall have been issued by the Secretary of Defense or his duly authorized representative;

(3) The space is acquired by the U.S. Postal Service for postal purposes.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)))
[39 FR 23202, June 27, 1974, as amended at 41 FR 36206, Aug. 27, 1976]

§ 101-18.103 Agency cooperation.

The heads of executive agencies shall (a) cooperate with and assist the Administrator of General Services in carrying out his responsibilities respecting office buildings and space, (b) take measures to give GSA early notice of new or changing space requirements, (c) seek to economize in their requirements for space, and (d) review continuously their needs for space in and near the District of Columbia, taking into account the feasibility of decentralizing services or activities which can be carried on elsewhere without excessive costs or significant loss of efficiency.

§ 101-18.104 Delegation of leasing authority.

Subject to the limitations stated in § 101-18.105, agencies are hereby authorized to perform for themselves all functions with respect to acquisition of space by lease in buildings and land incidental thereto when the following conditions are met:

(a) The space may be leased for no rental, or for a nominal consideration of $1.00 per annum; or

(b) When authority has been requested by an executive agency and a specific delegation has been granted by the Administrator of General Services; or

(c) The space is found by the Administrator of General Services to be wholly or predominantly utilized for the special purposes of the agency to have custody thereof and is not generally suitable for the use of other agencies; including but not limited to hospitals, housing, laboratories, mints, manufacturing plants, and penal institutions. (The types of space listed in § 101-18.104-1 have been found to be wholly or predominantly utilized for the special purposes of the agency named and are not generally suitable for the uses of other agencies.); or

(d) Prior approval of GSA has been obtained before an agency initiates a leasing action which involves 2,500 or more square feet of special purpose space. The request for approval and a Standard Form 81 shall be filed with the GSA regional office having jurisdiction in the area of the proposed leasing action as shown in § 101-17.4801.

§ 101-18.104-1 List of special purpose space.

(a) Department of Agriculture:

(1) Aircraft storage and repair shops.

(2) Fumigation areas.

(3) Garage space held under service contract.

(4) Greenhouses.

(5) Land.

(6) Miscellaneous storage by cubic foot or weight basis.

(7) Office space when required to be located in or adjacent to stockyards.

(8) Space for agricultural commodities stored in licensed warehouses and utilized under warehousing contracts.

(9) Space utilized in cooperation with State and local governments or their instrumentalities where the cooperating State or local government occupies a portion of the space and pays a portion of the rent.

(10) Plant, bird, and animal quarantine facilities.

(11) Housing.

(12) Storage for pesticide materials and equipment.

(b) Department of Commerce:

(1) Maritime training stations.

(2) Radio stations.

(3) Laboratories for testing materials, classified or ordnance devices, and calibration of instruments.

(4) Weather bureau offices at airports.

(5) Docks, piers, and mooring facilities.

(6) Garage space held under service contract.

(7) Hangars used for airplane storage.

(8) Oil and gasoline storage.

(9) Shipbuilding materials storage.

(10) Stockpiling depots.

(11) Torpedo net depots.

(c) Department of Defense:

(1) Air Force—Civil Air Patrol Liaison Office when required for use incidental to, in conjunction with, and in close proximity to airports.

(2) Armories.

(3) Cold and freezer storage.

(4) Depot storage.

(5) Docks and piers.

(6) Film library in the vicinity of Washington, D.C.

(7) Filter centers.

(8) Garage space held under service contract.

(9) Hangars and other airport operating facilities.

(10) Hospitals.

(11) Hotels.

(12) Housing.

(13) Land (including aircraft and warning stations).

(14) Laundries.

(15) Leased buildings at Jackson, Mississippi, Air Force Base.

(16) Lumber storage.

(17) Mess halls.

(18) Mooring space.

(19) Oil and gasoline storage.

(20) Open storage.

(21) Ports of embarkation and debarkation.

(22) Post exchanges.

(23) Postal Concentration Center at Long Island City, New York.

(24) Recreation centers.

(25) Reserve training space.

(26) Schools.

(27) Service clubs.

(28) Testing laboratories.

(29) Troop detachments.

(d) Home Loan Bank Board: Space for field offices of Examining Division required to be located within Federal Home Loan Bank buildings or immediately adjoining or adjacent to such buildings.

(e) Department of Housing and Urban Development: Space used for residential and related purposes.

(f) Department of Justice: U.S. Marshal's offices in Alaska and Border Patrol Offices similar in character and utilization to police stations involving the handling of prisoners, firearms, and motor vehicles, regardless of location.

(g) Tax Court of the United States: Present courtroom in Grand Central Terminal Building, New York, New York.

(h) Veterans Administration:

(1) Guidance and training centers located at schools and colleges.

(2) Space used for Veterans Administration hospitals and related purposes.

(i) Department of the Interior:

(1) Space in buildings and land incidental thereto used by field crews of the Bureau of Reclamation, Bureau of Land Management, and the Geological Survey for periods of less than 1 year in remote areas where no other Government agencies are quartered; and

(2) Garage space held under service contract used by the Geological Survey and the Bureau of Land Management.

(j) Department of Health, Education, and Welfare: Space used for hospitals, quarantine stations, and laboratories.

(k) Federal Communications Commission: Monitoring station sites.

(l) Department of Transportation:

(1) U.S. Coast Guard: Plots of land and pier sites, including closed storage space required in combination with piers and docking and mooring facilities; space for the oceanic unit at Woods Hole, Mass.; and space for port security activities; and

(2) Federal Aviation Administration. The Aeronautical Center at Oklahoma City, Oklahoma, air route traffic control centers, garage space held under service contracts, land at airports, and not more than 10,000 square feet of space at airports that is used predominately as general purpose office space in buildings under the jurisdiction of public or private airport authorities.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

[39 FR 23202, June 27, 1974, as amended at 40 FR 2587, Jan. 14, 1975]

§ 101-18.105 Limitations on the use of delegated authority.

(a) Agencies authorized by this Subpart 101-18.1 to perform functions with respect to acquiring space by lease may perform such functions only:

(1) When the utilization requirements of Part 101-17 have been met; and

(2) In accordance with the authorities in § 101-18.001, § 101-18.100, and applicable provisions of Chapters 1 and 101 of this title.

(b) Agencies may not exercise the long-term leasing authority contained in section 210(h)(1) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(h)(1)) in the performance of the functions delegated under this Subpart 101-18.1 without specific authorization from the Administrator of General Services.

(c) Agencies having a need for other than temporary parking accommodations in the urban centers listed in § 101-18.102, for Government-owned motor vehicles not regularly housed by GSA, shall ascertain the availability of Government-owned or -controlled parking from GSA in accordance with the procedures outlined in § 101-17.101-6 prior to instituting procurement action to acquire parking facilities or services.

(d) In accordance with section 7(a) of the Public Buildings Act of 1959, as amended (40 U.S.C. 606), agencies must submit a prospectus to the Administrator of General Services for leases involving an average annual rental in excess of $500,000.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

[39 FR 23202, June 27, 1974, as amended at 41 FR 52458, Nov. 30, 1976]

§ 101-18.106 Contingent fees and related procedure.

The provisions of Subpart 1-1.5 of this title with respect to contingent fees and related procedure are hereby made applicable to all negotiated and advertised contracts for the acquisition of real property by lease. The covenant shall be appropriately adapted for use in leases of real property for Government use.

§ 101-18.107 Application of socioeconomic considerations.

(a) In acquiring space by lease, locations will be avoided which will work a hardship on employees because (1) there is a lack of adequate housing for low- and middle-income employees on a nondiscriminatory basis within reasonable proximity and (2) the location is not readily accessible from other areas of the urban center.

(b) Consideration of low- and moderate-income housing on a nondiscriminatory basis for employees and the need for development and redevelopment of areas for socioeconomic improvement will apply to the acquisition of space by lease where:

(1) 100 or more low- or moderate-income employees are expected to be employed in the space to be leased; and

(2) The lease involves residential relocation of a majority of the existing low- and moderate-income work force, a significant increase in their transportation or parking costs, travel time that exceeds 45 minutes to the new location, or a 20 percent increase in travel time if travel time to the present facility already exceeds an average of 45 minutes; or

(3) GSA requests HUD review in lease actions of special importance not covered by paragraphs (b) (1) and (2) of this section.

(c) The Department of Housing and Urban Development is responsible for providing information concerning the availability of low- and moderate-income housing on a nondiscriminatory basis in areas where Federal facilities are to be located.

(d) The Department of Housing and Urban Development will be consulted concerning the availability, on a nondiscriminatory basis, of low- and moderate-income housing for those Federal employees who will work in the project area.

(e) Other socioeconomic considerations described in § 101-19.101 are also applicable to acquisition by lease.

Subpart 101-18.2—Acquisition by Purchase or Condemnation

§ 101-18.200 Purpose.

These regulations will:

(a) Encourage and expedite the acquisition of real property by agreements with owners;

(b) Avoid litigation where possible and relieve congestion in the courts;

(c) Insure consistent treatment of owners in the many Federal programs; and

(d) Promote public confidence in Federal land acquisition practices.

§ 101-18.201 Basic acquisition policy.

GSA, to the greatest extent practicable, will:

(a) Make every reasonable effort to acquire expeditiously real property by negotiation.

(b) Appraise real property before the initiation of negotiations and give the owner or his designated representative an opportunity to accompany the appraiser during his inspection of the property.

(c) Establish, prior to the initiation of negotiations for real property, an amount estimated to be the just compensation therefor and make a prompt offer to acquire the property for the full amount so established. GSA will provide the owner of the real property to be acquired with a written statement of the amount established as just compensation and a summary of the basis for it. Where appropriate, the just compensation for the real properly acquired and for damages to remaining real property will be separately stated. The summary statement to be furnished the owner will include the following:

(1) Identification of the real property and the estate or interest therein to be acquired;

(2) Identification of the buildings, structures, and other improvements considered to be part of the real property for which the offer of just compensation is made;

(3) A statement that GSA's determination of just compensation is based on the estimated fair market value of the property to be acquired. If only part of the property is to be acquired or the interest to be acquired is less than the full interest of the owner, the statement will explain the basis for the determination of the just compensation;

(4) A statement that GSA's determination of just compensation is not less than its approved appraisal of the property; and

(5) A statement that any increase or decrease in the fair market value of the real property, prior to the date of valuation, caused by the public improvement or project for which the real property is to be acquired, or by the likelihood that the real property would be acquired for such improvement or project, other than that due to physical deterioration within the reasonable control of the owner, has been disregarded in making the determination of just compensation for the property.

(d) Acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property. This includes buildings, structures, or other improvements that GSA requires to be removed from the real property or that GSA determines will affect adversely the proposed use of the real property. If any buildings, structures, or other improvements comprising part of the real property are the property of an occupant who has the right or obligation to remove them at the expiration of his term, the total just compensation for the real property, including the property of the occupant, will be determined and the occupant will be paid the greater of the:

(1) Fair market value of the buildings, structures, or other improvements to be removed from the property; or

(2) Contributive fair market value of the occupant's improvements to the fair market value of the entirety, which value should not be less than the value of his improvements for removal from the real property. Payment under this paragraph (d) of this section will not be a duplication of any payment otherwise authorized by law. No payment will be made unless the landowner disclaims all interests in the occupant's improvements and the occupant in consideration for such payment shall assign, transfer, and release to the Government all his right, title, and interest in and to such improvements. The occupant may reject payment under this paragraph (d) of this section and obtain payment for his property interests in accordance with other applicable laws.

(e) Obtain only one appraisal on each parcel, tract, etc., of real property to be acquired unless GSA determines that circumstances require an additional appraisal or appraisals.

(f) Maintain records to verify that the landowner or his designated representative(s) was given an opportunity to accompany the appraiser during the inspection of the real property.

(g) Pay an owner or occupant or deposit such payment in the registry of the court before requiring him to surrender his property. To the maximum extent practicable, owners and occupants will be given at least 90 days' notice of displacement before being required to move from real property acquired by GSA. If permitted by GSA to remain in possession for a short period of time after Government acquisition, the rental charged for this occupancy will not be more than the fair rental value of the property to a short-term occupier.

(h) Not intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his property. Offer to acquire the entire property where the acquisition of a part of a property will leave the owner with an uneconomic remnant.

§ 101-18.202 Expenses incidental to transfer.

GSA will amend its contract-to-sell-real-property forms to provide for reimbursement to vendors in amounts deemed by GSA to be fair and reasonable for the following expenses:

(a) Recording fees, transfer taxes (other than tax imposed on the United States), and similar expenses incidental to conveying the real property;

(b) Penalty cost for prepayment of any preexisting recorded mortgage entered into in good faith encumbering said real property; and

(c) The pro rata portion of real property taxes paid by the vendor for periods subsequent to the day title vests in the United States.

§ 101-18.203 Litigation expenses.

GSA will plan for and take into consideration the possible liability for the payment of litigation expenses of a condemnee as provided for in section 304 of the Act.

Subpart 101-18.3—Relocation Assistance and Payments

§ 101-18.300 Purpose.

These regulations will serve to insure uniform, fair, and equitable treatment of persons displaced from their homes, businesses, or farms by Federal or federally assisted programs designed for the benefit of the public as a whole and to safeguard against abuse of any of the underlying purposes, provisions, and policies of the Act.

§ 101-18.301 Basic policy.

GSA, to the greatest extent practicable will:

(a) Administer its real property acquisition programs or projects so that every person displaced because of such programs or projects will have been offered a comparable replacement dwelling which is decent, safe, and sanitary before being required to vacate the dwelling acquired by the Government.

(b) Make prompt and equitable payments to those eligible displaced persons to cover:

(1) Reasonable costs incurred for moving and related expenses;

(2) Amounts determined to be the replacement housing payments; and/or

(3) Amounts determined to be the replacement rental payments.

(c) Provide, or cause to be provided, relocation assistance advisory services in a manner to insure that the displaced person will receive assistance in relocation. When GSA causes services to be provided by the staff of an agent under contract, GSA will require that the services be administered in a manner that will accomplish the specific and underlying purposes of the Act.

(d) Provide procedures for reviewing the application of an aggrieved applicant to encourage the prompt and proper resolution of the causes of such aggravation.

(e) Adhere to all existing GSA regulations, procedures, policies, and forms relating to the acquisition of real property and interests therein as well as project requirements except as modified by the requirements of the Act and these regulations.

§ 101-18.302 Right of appeal.

Any applicant aggrieved by a determination of eligibility for a payment under the Act, or the amount of such payment, may submit through the Commissioner, Public Buildings Service, a request to have his application reviewed by the Administrator of General Services.

§ 101-18.303 General criteria for decent, safe, and sanitary housing.

A decent, safe, and sanitary dwelling is one which meets all of the following minimum requirements:

(a) Conforms with all applicable provisions for existing structures that have been established under State or local building, plumbing, electrical, housing, and occupancy codes and similar ordinances or regulations.

(b) Has a continuing and adequate supply of potable safe water.

(c) Has a kitchen or an area set aside for kitchen use which contains a sink in good working condition and is connected to hot and cold water and an adequate sewage system.

(d) Has an adequate heating system in good working order capable of maintaining a minimum temperature of 70° F. in the living area under local outdoor design temperature conditions. A heating system will not be required in those geographical areas where it is not normally included in new housing.

(e) Has a bathroom, well lighted and ventilated and affording privacy to a person within it, containing a lavatory basin and a bathtub or stall shower properly connected to an adequate supply of hot and cold running water, and a flush closet, all in good working order and properly connected to a sewage disposal system.

(f) Has an adequate and safe wiring system for lighting and other electrical services.

(g) Is structurally sound, weathertight, in good repair, and adequately maintained.

(h) Has a safe unobstructed means of egress leading to safe open space at ground level. Each dwelling unit in a multidwelling building must have access either directly or through a common corridor to a means of egress to open space at ground level. In buildings of three stories or more, the common corridor on each story must have at least two means of egress.

(i) Has 150 square feet of habitable floor space for the first occupant in a standard living unit and at least 100 square feet (70 square feet for mobile home) of habitable floor space for each additional occupant. The floor space is to be subdivided into sufficient rooms to be adequate for the family. All rooms must be adequately ventilated. Habitable floor space is defined as that space used for sleeping, living, cooking, or dining purposes and excludes such enclosed places as closets, pantries, bath or toilet rooms, service rooms, connecting corridors, laundries, and unfurnished attics, foyers, storage spaces, cellars, utility rooms, and similar spaces.

§ 101-18.303-1 Sleeping rooms.

The standards for decent, safe, and sanitary housing as applied to rental of sleeping rooms shall include the minimum requirements in § 101-18.303

(a), (d), (f) through (h), and the following:

(a) At least 100 square feet of habitable floor space for the first occupant and 50 square feet of habitable floor space for each additional occupant.

(b) Lavatory, bath, and toilet facilities that provide privacy, including a door that can be locked if such facilities are separate from the room.

§ 101-18.303-2 Application of local code standards.

In those instances where there is no local housing code or where a local housing code does not meet all the standards listed in this section, the Commissioner, Public Buildings Service, will determine the standards acceptable for decent, safe, and sanitary housing.

§ 101-18.303-3 Exceptions.

Exceptions may be granted to decent, safe, and sanitary standards and will be limited to items and circumstances that are beyond the reasonable control of the displaced person to adhere to the standards. Approved exceptions will not affect the computation of a replacement housing payment.

§ 101-18.304 Multiple occupancy.

Multiple occupancy will be treated as single occupancy in the case of individuals, not families, in dealing with benefits for replacement housing. However, each displaced individual may receive benefits for actual, reasonable moving expenses and for other related expenses, and in the case of families, each family will be considered separately.

§ 101-18.305 Moving and related expenses.

Whenever the acquisition of real property by GSA will result in the displacement of any person on or after January 2, 1971, and that person occupied the real property acquired by GSA prior to its acquisition. GSA will make a payment to the person, upon application as approved by GSA, for the person's reasonable and actual moving expenses as follows:

(a) Transporting individuals, families, and property from the acquired site, including storage, to the replacement site, not to exceed a distance of 50 miles except where GSA determines that relocation beyond the 50-mile area is justified.

(b) Packing and crating personal property.

(c) Advertising for packing, crating, and transportation when GSA determines that it is necessary.

(d) Storing personal property for a period generally not to exceed 12 months when GSA determines that storage is necessary in connection with relocation.

(e) Insuring loss and damage of personal property while it is in storage or transit.

(f) Removing, reinstalling, and reestablishing machinery, equipment, appliances, and other items not acquired as real property, including reconnection of utilities, which do not constitute an improvement to the replacement site, and which were not acquired by GSA. (Prior to payment of any expenses for removal and reinstallation of such property, the displaced person shall be required to agree in writing that the property is personalty and that GSA is released from any payment for the property.)

(g) Replacing property lost, stolen, or damaged (not caused by the fault or negligence of the displaced person, his agent, or employees) in the process of moving, where insurance to cover such loss or damage was not available at the time of the move.

(h) Paying other reasonable expenses determined proper by GSA.

§ 101-18.305-1 Limitations.

In the implementation of section 202 of the Act, GSA will apply the following limitations:

(a) When the displaced person accomplishes the move himself, the amount of payment will not exceed the estimated cost of moving commercially.

(b) When an item of personal property which is used in connection with any business or farm operation is not moved but sold, and promptly replaced with a comparable item, reimbursement will not exceed the replacement cost, minus the proceeds received from the sale, or the cost of moving, whichever is less.

(c) When personal property which is used in connection with any business or farm operation to be moved is of low value and high bulk, and the cost of moving would be disproportionate in relation to the value, as determined by GSA, the allowable reimbursement for the expense of moving the personal property will not exceed the difference between the amount which would have been received for that item on liquidation and the cost of replacing the same with a comparable item available on the market. This provision will be applicable in the case of moving of junkyards, stockpiled sand, gravel, minerals, metals, and similar type items of personal property.

§ 101-18.305-2 Exclusions.

In the implementation of section 202 of the Act, GSA will exclude from payment the following moving expenses and losses:

(a) Additional expenses incurred because of living in a new location.

(b) Cost of moving structures, improvements, or other real property in which the displaced person reserved ownership.

(c) Improvements to the replacement site, except when they are required to reinstall machinery, equipment, or other personal property.

(d) Interest on loans to cover moving expenses.

(e) Loss of goodwill (other than loss of patronage).

(f) Loss of profits.

(g) Loss of trained employees.

(h) Personal injury.

(i) Cost of preparing the application for moving and related expenses.

(j) Modification of personal property to adapt it to the replacement site, except when the modification is required by law.

(k) Such other items as GSA determines should be excluded on the basis that they are not reasonable, prudent or proper.

§ 101-18.305-3 Direct losses.

GSA will reimburse a displaced person for direct losses to personal property as the result of the person's moving or discontinuing a business or a farm operation in accordance with the following:

(a) When the displaced person does not move personal property, he will be required to make a bona fide effort to sell it.

(b) When personal property is sold and the business or farm operation reestablished, the displaced person is entitled to the lesser of (1) the cost of moving the personal property sold or (2) replacement cost minus the sale proceeds.

(c) When the business or farm operation is discontinued, the displaced person is entitled to the lesser of (1) the in place value of the personal property minus the sale proceeds or (2) the cost of moving the personal property.

(d) When the personal property is abandoned, the displaced person is entitled to payment for the lesser of (1) the in place value of the personal property minus the amount (as determined by GSA) which would have been received from the sale of the item or (2) the cost of moving the personal property.

§ 101-18.305-4 Expenses in searching for a replacement business or farm.

In the implementation of section 202(a)(3) of the Act, GSA will allow the following expenses, except that the total amount which a displaced person may be paid for searching expenses will not exceed $500, unless GSA determines that a greater amount is justified based on the circumstances involved. The following expenses shall be allowed, subject to the foregoing maximum limitations:

(a) Travel costs up to a maximum distance of 100 miles.

(b) Reasonable costs for meals and lodging.

(c) Time spent in searching at the rate of the displaced person's salary or earnings, but not exceeding $10 per hour.

(d) Broker or realtor fee to locate a replacement business or farm operation if GSA determines such service is necessary to effect a satisfactory relocation.

§ 101-18.305-5 Scheduled payments.

Any displaced person eligible for moving and related expense benefits heretofore enumerated may elect to receive a moving expense allowance determined in accordance with a schedule established by GSA but not to exceed $300 and a dislocation allowance of $200. These payments will be made upon application by the displaced person and need not be supported by any evidence of incurred expenses. The schedule established by GSA will be the room moving allowance schedules maintained by the respective State highway departments.

§ 101-18.305-6 Fixed payments for displaced businesses or farms.

Any eligible displaced business or farm operator who elects to accept a payment authorized by this section in lieu of the moving and related expense payments heretofore enumerated may receive a fixed payment in an amount equal to the average annual net earnings of the business or farm operation, except that such payment will not be less than $2,500 nor more than $10,000. However, where an entire farm operation is not acquired, the payment will be made only if GSA determines that the farm met the definition of a farm operation prior to the acquisition and the property remaining after the acquisition is no longer an economic farm unit. In the case of a business, no such payment will be made unless GSA is satisfied that the business cannot be relocated without a substantial loss of its existing patronage and is not part of a commercial enterprise which is engaged in the same or similar business and having at least one other establishment not being acquired by the Government. The term "average annual net earnings" means one-half of the sum of the net earnings of the business or farm operation before Federal, State, and local income taxes during the 2 taxable years immediately preceding the taxable year in which the business or farm operation moves from the real property acquired by GSA or during any other period that GSA determines to be more equitable for establishing such earnings. The "average annual net earnings" includes any compensation paid by the business or farm operation to the owner, his spouse, or his dependents during that period.

(a) To be eligible for the payment authorized in this section, the business or farm operation must contribute materially to the income of the displaced owner. This standard is designed to eliminate from consideration those parttime family occupations which do not contribute materially to a displaced person's income.

(b) The loss of existing patronage of a business will be determined by GSA only after consideration of all pertinent circumstances, including the following:

(1) The type of business conducted by the displaced concern.

(2) The nature of the clientele of the displaced concern.

(3) The relative importance of the present and proposed locations to the patronage of the displaced business.

(c) A person who is displaced from his place of business or farm may elect to receive a fixed relocation payment whether or not he discontinues or reestablishes operations. Any displaced owner-occupant of a multifamily dwelling who earns income from that dwelling will be regarded as displaced from his place of business, in addition to having been displaced from his dwelling, and is eligible in accordance with the foregoing requirements for a fixed payment based on the average annual net earnings.

§ 101-18.305-7 Advance payments in hardship cases.

Advance moving and related expense payments may be made to individuals, families, and business concerns in cases of hardship. By written prearrangement between the displaced person, GSA, and the mover, the mover may present invoices covering services rendered to GSA for direct payment.

§ 101-18.306 Replacement housing payments.

In addition to payments otherwise authorized, GSA will make a payment not in excess of $15,000 to any eligible displaced person who is displaced from a dwelling actually owned and occupied by the displaced person for not less than 180 days prior to initiation by GSA of negotiations for the acquisition of the dwelling. Such additional payments will include the following elements:

(a) The amount, if any, which when added to the acquisition cost of the dwelling acquired by the Government is determined to be the reasonable cost of a comparable replacement dwelling.

(b) The amount, if any, which will compensate the displaced person for any increased interest costs which the person is required to pay for financing of the comparable replacement dwelling. This amount will be paid only if the dwelling acquired by the Government was encumbered by a bona fide mortgage which was a valid lien on the dwelling for not less than 180 days prior to the initiation of negotiations for the acquisition of the dwelling. The amount will be equal to that amount, reduced to discounted present value, by which the aggregate interest on and other debt service costs (exclusive of any amounts credited against the principal balance) of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid principal balance of the mortgage on the acquired dwelling over the remainder of the term of the mortgage on the acquired dwelling exceeds the aggregate of such interest and costs on such unpaid principal balance over such remaining term. The discount rate will be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located.

(c) Reasonable expenses incurred by the displaced person for evidence of title, recording fees, legal, closing, and related costs, preparing conveyance contracts, credit reports, FHA and VA appraisal fees, and other costs incident to the purchase of the comparable replacement dwelling, but not including prepaid expenses.

§ 101-18.306-1 Eligibility.

A displaced owner-occupant is eligible for a replacement housing payment if he:

(a) Owned and occupied the acquired dwelling for not less than 180 days immediately prior to the initiation by GSA of negotiations for the real property; and

(b) Purchases and occupies a comparable replacement dwelling not later than the end of the 1-year period beginning on the date on which the displaced person receives from Government final payment of all costs of the acquired dwelling or on the date on which he moves from the acquired dwelling, whichever is later.

(c) For purposes of paragraph (a) of this section, an owner-occupant who has acquired an interest in the property by devise, bequest, intestate succession, or operation of law, shall be deemed to have occupied the dwelling from the date of commencement of the next preceding period of occupancy of his predecessor in interest.

§ 101-18.306-2 Computation of replacement housing payment.

GSA will compute the amount of the replacement housing payment by:

(a) Determining the amount necessary to purchase a comparable replacement dwelling using a schedule, or by devising a suitable alternate method to better meet local conditions. The schedule will be based on a continuing and current analysis of the market to determine a representative amount for each type of dwelling required.

(b) Selecting a comparable dwelling or dwellings which are actually available on the real estate market and which meet the definition of a comparable replacement dwelling. Asking prices will be adjusted to reflect market sales experience. A single comparable dwelling will be used only when additional comparable dwellings are not available.

(c) Cooperating with other Federal agencies causing displacement in a community to establish a uniform method of calculating replacement housing payments.

(d) Basing the interest payment portion of the replacement housing payment on the present value of the reasonable cost of the interest differential including points paid by the purchaser on the amount refinanced not to exceed the amount of the unpaid debt for its remaining term at the time of Government acquisition of the real property.

(e) Reimbursing the displaced person, in the amount found in the incidental expenses portion of the replacement housing payment, for costs incident to the purchase of a comparable replacement dwelling. This amount may include: Legal, closing, and related costs including costs of title search, preparing conveyance contracts, notary fees, surveys, preparing drawings of plats, and charges incident to recordation; lender's, FHA, or VA appraisal fees; FHA application fees; certifying structural soundness when required by lender, FHA, or VA; credit report; title policies or abstracts of title; escrow agent's fee; and State revenue stamps, or sale or transfer taxes. However, no fee, cost, charge, or expense is reimbursable which is determined to be part of the finance charge under the Truth in Lending Act, Title I, Pub. L. 90-321 and Regulation Z issued pursuant thereto by the Board of Governors of the Federal Reserve System.

§ 101-18.306-3 Upper limit of replacement housing payment.

The amount established as the replacement housing cost for a comparable replacement dwelling sets the upper limit of this payment.

(a) If a displaced person, of his own volition, purchases and occupies a decent, safe, and sanitary dwelling at a price less than the upper limit of the replacement housing payment plus the purchase price paid by the Government for the Government-acquired dwelling, the replacement housing payment will be reduced to the amount necessary to pay the difference between the acquisition price of the replacement dwelling and the actual price paid by the Government for the dwelling plus reasonable incidental expenses. A displaced person will be considered as having "purchased" such a dwelling if he acquires an existing dwelling, purchases and rehabilitates a substandard dwelling, relocated, or relocated and rehabilitates an existing dwelling, constructs a new dwelling, contracts to purchase a dwelling to be constructed on a site provided by a builder or developer, or enters into a contract for the construction of a dwelling on a site which he owns or acquired for the purpose.

(b) If a displaced person, of his own volition, purchases and occupies a decent, safe, and sanitary dwelling at a price less than the acquisition price of the acquired dwelling, no differential payment will be made.

§ 101-18.306-4 Notice of initiation of negotiations.

Persons lawfully occupying real property acquired by GSA will be notified of the date when negotiations for the property were initiated with the property owner.

§ 101-18.307 Replacement rental payments.

In addition to payments otherwise authorized, GSA will make a payment not in excess of $4,000 to any eligible displaced person not eligible to receive a replacement housing payment under § 101-18.306 who actually and lawfully occupied the dwelling acquired by the Government for not less than 90 days immediately prior to the initiation of negotiations for acquisition of the dwelling. GSA will notify the occupant of the property in writing of the actual date of initiation of negotiations. The payment will be the amount, not to exceed $4,000, determined by GSA to be necessary to enable the displaced person to:

(a) Lease or rent for a period not to exceed 4 years a comparable replacement dwelling, or

(b) Make a downpayment, including incidental expenses described in § 101-18.306-2(e), on a comparable replacement dwelling; if the amount exceeds $2,000, the displaced person must match any amount in excess of $2,000 in making the downpayment.

§ 101-18.307-1 Eligibility.

A displaced person who is an occupant or an owner-occupant less than 180 days prior to initiation of negotiations is eligible for a replacement housing payment if he meets both of the following requirements:

(a) Occupies, actually and lawfully, the dwelling for not less than 90 days immediately prior to the initiation of negotiations for the acquisition of the dwelling.

(b) Meets the other eligibility requirements of § 101-18.307.

§ 101-18.307-2 Owner-occupant who elects to rent.

An owner-occupant eligible for a replacement housing payment under the provisions of § 101-18.306 but who elects to rent a comparable replacement dwelling rather than purchase such a replacement dwelling is eligible for a replacement rental payment under these provisions. However, in no event will the replacement rental payment exceed the amount of his entitlement under the replacement housing payment provisions.

§ 101-18.307-3 Computation of renter's replacement rental payment.

Computation of the replacement rental payment for eligible displaced persons who elect to rent a comparable replacement dwelling will be determined by GSA by the establishment of a schedule, by using a comparative method, or by devising a suitable alternate method to better meet local conditions.

(a) GSA may establish a rental schedule for comparable replacement dwellings. The replacement rental payment will be computed by determining the amount necessary to rent a comparable replacement dwelling for 4 years (using the average monthly cost from the schedule) and subtracting from that amount 48 times the average month's rent paid by the displaced person in the last 3 months prior to initiation of negotiations if such rent was reasonable, or if not reasonable, 48 times the monthly economic rent for the dwelling as established by GSA. Economic rent is the amount of rent the displaced occupant would have had to pay for a similar dwelling unit in areas not generally less desirable than the dwelling unit to be acquired. The schedule should be based on a current analysis of the market to determine an amount for each type of dwelling required.

(b) GSA may determine the average month's rent by selecting one or more dwellings representative of the dwelling unit acquired by the Government which is available on the market and is a comparable replacement dwelling. The payment will be computed by determining the amount necessary to rent for 4 years the comparable replacement dwelling and subtracting the amount of 48 times the average month's rent paid by the displaced person in the last 3 months prior to initiation of negotiations, or if not reasonable, 48 times the monthly economic rent.

(c) GSA may establish the average month's rent paid by a displaced person by using more than 3 months prior to negotiations if it is deemed advisable.

(d) All replacement rental payments for displaced persons who elect to rent instead of purchase, that exceed $500, will be made in four equal installments on an annual basis. Before making each annual payment, GSA will verify that the displaced person continues to occupy a decent, safe, and sanitary dwelling.

(e) When more than one Federal agency is causing displacement in a community or area, GSA will cooperate with those agencies in determining uniform replacement rental payments.

§ 101-18.307-4 Computation of purchaser's replacement rental payment.

Computation of the replacement rental payment for eligible displaced persons who elect to purchase instead of rent a comparable replacement dwelling will be the amount determined to be necessary to make a downpayment and to cover incidental expenses in the purchase of a replacement dwelling.

(a) Incidental expenses of closing the transaction are those heretofore described in § 101-18.306-2(e).

(b) The full amount of the downpayment must be applied to the purchase price and such downpayment and incidental costs shown on the closing statement.

(c) To receive payment to apply on the purchase of a replacement dwelling, an occupant or owner-occupant eligible under this section to receive a replacement housing payment must purchase and occupy a decent, safe, and sanitary dwelling not later than 1 year subsequent to the date he vacated the dwelling acquired by GSA.

§ 101-18.307-5 Time limit for filing claims.

Claims for benefits under the Act are to be received by GSA within 18 months from the date on which the displaced person moves from the real property acquired or to be acquired; or the date on which GSA makes final payment of all costs for the acquisition of the real property, whichever is the later date.

§ 101-18.308 Relocation assistance advisory services.

Whenever GSA causes displacement of persons after January 2, 1971, GSA will provide to all eligible displaced persons a relocation assistance advisory service. This service will be provided by GSA personnel or by the personnel of a contractor employed by GSA. If GSA determines that any person occupying property immediately adjacent to the real property acquired by the Government is caused substantial economic injury because of that acquisition, that person may be offered relocation assistance advisory services.

(a) GSA will cooperate to the maximum extent feasible with other Federal or State agencies to insure that displaced persons receive the maximum assistance available to them.

(b) GSA relocation assistance advisory services will include such measures, facilities, or services as may be necessary or appropriate in order to:

(1) Determine the need, if any, of eligible displaced persons for relocation assistance.

(2) Provide current and continuing information on the availability, prices, and rentals of comparable replacement dwellings which are decent, safe, and sanitary and of comparable commercial properties and locations for displaced businesses.

(3) Insure that, within a reasonable time, prior to displacement, comparable replacement dwellings which are decent, safe, and sanitary will be available to replace the dwellings acquired by the Government.

(4) Assist a person displaced from his business or farm operation in obtaining and becoming established in a replacement location.

(5) Supply information concerning Federal and State housing programs, disaster loan programs, and other Federal or State programs offering assistance to displaced persons.

(6) Provide other advisory services to displaced persons to minimize hardships to such persons in adjusting to relocation.

§ 101-18.309 Availability determination.

GSA will not proceed with any phase of a project which will cause the displacement of any person until it has determined that there will be available within a reasonable time prior to such displacement on a basis consistent with the requirements of Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284), in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means (including supplements provided by law) of the families displaced, decent, safe, and sanitary dwellings equal in number of, and available to, such displaced persons who require such dwellings and reasonably accessible to their places of employment.

(a) This determination will be based on a current survey and analysis of available replacement housing resources. This survey will take into account the competing demands on the available housing resources.

(b) GSA may waive the requirements of this section in periods of emergency and/or other extraordinary situations where immediate possession of real property is of crucial importance.

§ 101-18.310 Housing replacement as a last resort.

GSA will be guided by the criteria and policies to be developed by the Secretary of Housing and Urban Development in its implementation of section 206 of the Act.

§ 101-18.311 Planning and other preliminary expenses for additional housing.

GSA will be guided by the criteria and policies to be developed by the

Secretary of Housing and Urban Development in its implementation of section 215 of the Act.

§ 101-18.312 Applicability to the acquisition of leasehold interest.

The relocation provisions of the Act do not apply to leasing actions except when persons are displaced as a result of the condemnation of a leasehold interest, or threat of condemnation, or a lease construction project.

PART 101-19—CONSTRUCTION AND ALTERATION OF PUBLIC BUILDINGS

Sec.
101-19.000 Scope of part.
101-19.001 Authority.
101-19.002 Basic policy.
101-19.003 Definition of terms.
101-19.003-1 Alter.
101-19.003-2 Alteration project.
101-19.003-3 Construct.
101-19.003-4 Executive agency.
101-19.003-5 Prospectus.
101-19.003-6 Public building.
101-19.003-7 United States.

Subpart 101-19.1—General

101-19.100 Intergovernmental consultation on Federal projects.
101-19.101 Application of socioeconomic considerations.
101-19.101-1 Location of buildings.
101-19.101-2 Agreement with Secretary of Housing and Urban Development.
101-19.101-3 Consultation with HUD.
101-19.101-4 Affirmative action plan.
101-19.101-5 Agency compliance.

Subpart 101-19.2—Selection and Approval of Projects

101-19.201 Determination of need.
101-19.202 Priority of projects.
101-19.203 Approval of projects.
101-19.204 Cooperation and assistance of Federal agencies.

Subpart 101-19.3—Alteration Projects

101-19.301 Emergency alteration projects.
101-19.302 Prospectuses for reimbursable alteration projects.

Subpart 101-19.4—Construction Projects

101-19.401 Contracting for construction.
101-19.402 Architectural and engineering services.

Subpart 101-19.5—Delegation of Authority

Sec.
101-19.501 Conditions justifying delegation.
101-19.502 Exercise of delegation.

Subpart 101-19.6—Accommodations for the Physically Handicapped

101-19.600 Scope of subpart.
101-19.601 Authority and applicability.
101-19.602 Definitions.
101-19.603 Standards.
101-19.604 Exceptions.
101-19.605 Waiver or modification of standards.
101-19.606 Recordkeeping.
101-19.607 Reporting.

Subparts 101-19.7—101-19.47 [Reserved]

Subpart 101-19.48—Exhibits

101-19.4800 Scope of subpart.
101-19.4801 Memorandum of understanding between the Department of Housing and Urban Development and the General Services Administration concerning low- and moderate-income housing.

Subpart 101-19.49—Illustration of Forms

101-19.4900 Scope of subpart.
101-19.4901 [Reserved]
101-19.4902 GSA forms.
101-19.4902-2974 GSA Form 2974, Status Report for Federally Funded Buildings—Accommodation of Physically Handicapped.
101-19.4902-2974A GSA Form 2974-A, Accessibility to the Physically Handicapped in Leased Buildings.

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SOURCE: 39 FR 23214, June 27, 1974, unless otherwise noted.

§ 101-19.000 Scope of part.

This part prescribes policies and procedures for the construction and alteration of public buildings in the United States.

§ 101-19.001 Authority.

This Part 101-19 implements the applicable provisions of the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended;

the Public Buildings Act of 1959 (40 U.S.C. 601-615 as amended); Pub. L. 90-480, 82 Stat. 718, as amended (42 U.S.C. 4151-4156); the Clean Air Act (42 U.S.C. 1857-1858); the Federal Water Pollution Control Act (33 U.S.C. 1151-1175); the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4201-4244, 40 U.S.C. 531-535); Evaluation, Review, and Coordination of Federal and Federally Assisted Programs and Projects (Office of Management and Budget Circular A-95 Revised); section 901(b) of the Agriculture Act of 1970, 84 Stat. 1383 as amended by section 601 of the Rural Development Act of 1972, 86 Stat. 674 (42 U.S.C. 1322(b)); Executive Order 12088 (3 CFR 829 (1971-1975 compilation)); Executive Order 11724 (3 CFR 777 (1971-1975 compilation)); Executive Order 12072 of August 16, 1978 (43 FR 36869); the Public Buildings Cooperative Use Act of 1976 (90 Stat. 2507); and Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601).

[45 FR 37206, June 2, 1980]

§ 101-19.002 Basic policy.

(a) In the process of developing building projects, the policies contained in § 101-17.002 regarding the determination of the location of Federal facilities shall be strictly adhered to.

(b) [Reserved]

(c) To the maximum extent practical, GSA will plan the construction and alteration of Federal facilities when such action can be shown to the most prudent and economic means of meeting Federal space requirements.

(d) GSA will provide technical services and guidance to other Federal agencies in the formulation and development of their programs for construction and alteration of special facilities.

(e) Excess properties transferred to GSA will be renovated and altered whenever practical to meet Government space needs.

(f) In selecting sites for public buildings, consideration will also be given to:

(1) Maximum utilization of Government-owned land (including excess land) whenever it is adequate, economically adaptable to requirements and properly located, where such use is consistent with the provisions of Executive Order 11724 of June 25, 1973 (38 FR 16837), and Subpart 101-47.8;

(2) A site adjacent to or in the proximity of an existing Federal building which is well located and is to be retained for long-term occupancy; and

(3) Suitable sites in established civic or redevelopment centers which are well planned and properly financed with development initiated and insured.

(g) The design of new buildings and their appurtenances should provide efficient and economical facilities in an architecture of distinction and quality. The architecture should reflect the dignity, enterprise, vigor, and stability of the United States Government. The designs shall embody the finest contemporary American architectural thought and shall respect local architectural characteristics.

(h) In the alteration of existing buildings, GSA will maintain architectural integrity and compatibility with existing structures.

(i) In the design of new public buildings, and to the extent feasible in the alteration of existing public buildings, GSA will (1) insure that such buildings and attendant facilities will be accessible to and usable by the physically handicapped (42 U.S.C. 4151-4156) and (2) utilize, to the maximum extent, modern methods and techniques for the control of air and water pollution (Clean Air Act 42 U.S.C. 1857-1858; Federal Water Pollution Control Act, 33 U.S.C. 1151-1175).

(j) In the siting and locating of buildings on selected sites, GSA representatives will work directly with local officials in seeking to conform as closely as possible to local zoning regulations.

(k) In the design of new public buildings and alterations to public buildings, the objectives of nationally recognized building and performance codes, standards, and specifications will be met and amplified according to the needs of GSA and as necessary to conform with the accident and fire prevention policy objectives stated in § 101-20.109-1. In addition, special features of local codes directly related to local circumstances or practices will be, to the maximum extent practical, incorporated into the design.

(l) Parking for Government-owned, visitors', and employees' vehicles will be provided in the planning of public buildings with due regard to the needs of the Federal agencies to be housed in each building, local zoning and parking regulations, availability of public transportation, and availability of planned and existing public and privately owned parking facilities in the locality.

(m) Fine arts, as appropriate, will be incorporated in the design of selected new public buildings. Fine arts, including painting, sculpture, and artistic work in other mediums, will reflect the national cultural heritage and emphasize the work of living American artists.

(n) Security floodlighting, as appropriate, will be incorporated in the design of selected new public buildings. Such security floodlighting will be designed for minimum energy consumption and reflect and enhance the architectural esthetics of the building.

[39 FR 23214, June 27, 1974, as amended at 45 FR 37206, June 2, 1980]

§ 101-19.003 Definition of terms.

For the purposes of this Subchapter D the following terms shall have the meanings set forth in this section.

§ 101-19.003-1 Alter.

"Alter" means repairing, remodeling, improving, extending, or otherwise changing a public building. The term includes preliminary planning; engineering; architectural, legal, fiscal, and economic investigations and studies; surveys; designs; plans; working drawings; specifications; procedures; and other similar actions necessary for the alteration of a public building.

§ 101-19.003-2 Alteration project.

"Alteration project", requiring compliance with section 7 of the Public Buildings Act of 1959, as amended, means a project to alter a public building which is estimated to cost in excess of $500,000 and which specifies any of the following:

(a) Alterations estimated to be completed in 5 years for the continued use and occupancy of the building.

(b) Alterations to a building and/or its equipment occasioned by a space reassignment.

(c) Alterations occasioned by an emergency.

§ 101-19.003-3 Construct.

"Construct" means to build a public building. The term includes preliminary planning, engineering, architectural, legal, fiscal, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other similar actions necessary for the construction of a public building.

§ 101-19.003-4 Executive agency.

"Executive agency" means any executive department or independent establishment in the executive branch of the Government including any wholly owned Government corporation and including the Central Bank for Cooperatives and the regional banks for cooperatives, Federal land banks, Federal intermediate credit banks, Federal home loan banks, Federal Deposit Insurance Corporation, and the Government National Mortgage Association.

§ 101-19.003-5 Prospectus.

"Prospectus" means the statement of the proposed project, required by section 7 of the Public Buildings Act of 1959, as amended (40 U.S.C. 606), including a description, its location, estimated maximum cost, a comprehensive plan for providing space for all Government officers and employees in the locality of the proposed project, a statement by the Administrator of General Services that suitable space owned by the Government is not available and that suitable rental space is not available at a price commensurate with that to be afforded through the proposed action, and a statement of rents and other housing costs currently being paid by the Government for Federal agencies to be housed in the proposed project.

§ 101-19.003-6 Public building.

(a) "Public building" means any building, whether for single or multitenant occupancy, its grounds, approaches, and appurtenances, which is generally suitable for office or storage space or both for the use of one or more Federal agencies or mixed ownership corporations, and shall include: Federal office buildings, post offices, customhouses, courthouses, appraisers stores, border inspection facilities, warehouses, record centers, relocation facilities, similar Federal facilities, and any other buildings or construction projects the inclusion of which the President may deem, from time to time hereafter, to be justified in the public interest; but shall not include any such buildings and construction projects: (1) On the public domain (including that reserved for national forests and other purposes), (2) on properties of the United States in foreign countries, (3) on Indian and native Eskimo properties held in trust by the United States, (4) on lands used in connection with Federal programs for agricultural, recreational, and conservation purposes, including research in connection therewith, (5) on or used in connection with river, harbor, flood control reclamation or power projects, or for chemical manufacturing or development projects, or for nuclear production, research, or development projects, (6) on or used in connection with housing and residential projects, (7) on military installations (including any fort, camp, post, naval training station, airfield, proving ground, military supply depot, military school, or any similar facility of the Department of Defense), (8) on Veterans Administration installations used for hospital or domiciliary purposes, and (9) the exclusion of which the President may deem, from time to time hereafter, to be justified in the public interest.

(b) Buildings leased by the Government are not "public buildings" within the meaning of the Public Buildings Act of 1959.

§ 101-19.003-7 United States.

"United States," when used in a geographical sense, means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

Subpart 101-19.1—General

§ 101-19.100 Intergovernmental consultation on Federal projects.

(a) As used in this section, the following terms will have the meanings defined herein:

(1) *Planning agencies.* Planning agencies are defined as the Governor of a State or, if there is one, the appropriate A-95 clearinghouse of the State, region, or metropolitan area, and the appropriate local, county, metropolitan, regional, and State planning and environmental authorities.

(2) *Federal projects.* Federal projects are defined as public buildings construction projects and lease construction projects required to be authorized in accordance with, or in the manner provided by, the provisions of the Public Buildings Act of 1959, as amended; and projects involving a significant change in the use of federally owned property or property to be acquired by exchange in connection with a public buildings project authorized under the provisions of the Public Buildings Act of 1959, as amended, or the Federal Property and Administrative Services Act of 1949, as amended.

(b) GSA will consult with planning agencies, local elected officials, and appropriate Federal agencies to coordinate Federal projects with development plans and programs of the State, region, and locality in which the project is to be located to ensure that all national, regional, State, and local viewpoints are fully considered and taken into account to the extent possible in planning Federal projects. A written statement containing a clear justification for Federal actions that are inconsistent with local plans will be provided the appropriate planning agencies.

(c) The consultation and coordination pursuant to paragraph (b) of this section will be initiated by the GSA Regional Administrator of the region in which the Federal project is located, and the manner in which the consultation and coordination will be effected is set forth below:

(1) The GSA Regional Administrator will notify the planning agencies at least 30 calendar days before the initi-

ation of any survey conducted for the purpose of preparing a prospectus or Report of Building Project Survey for submittal to the Congress. Notifications of less than 30 calendar days are authorized only in emergency situations. The notification will specify the approximate date(s) on which the survey will be conducted and will request that the GSA Regional Administrator be provided as soon as practicable all pertinent planning and development information that will be considered in connection with the space plan for the community. This information will include city, county, State, and regional plans for land use and development; use of community development funds; neighborhood revitalization; mass transit; highways; flood control; and air, water, solid waste, and other relevant environmental data.

(2) Within 30 calendar days following the approval of a proposed action by the Congress, the GSA Regional Administrator will inform the previously notified planning agencies of the results of the survey. Particular reference will be made to the need, if any, for a new Federal building within a 10-year period or a major lease consolidation which could result in new commercial construction in the community. The letter will request that the GSA Regional Administrator be informed of all changes or refinements in the planning information initially provided, and set forth the following minimum data relative to the proposed Federal project:

(i) Area or city in which the project will be located;

(ii) Type of building (office building, post office, courthouse, etc.);

(iii) Approximate size of building;

(iv) Specific site location requirements;

(v) Estimated building population; and

(vi) Estimated total project cost.

(3) In addition to paragraph (c)(2) of this section, major project designs should be made available to planning agencies at the conceptual design stage, and information received by GSA 2 or more years prior to commencement of action on a project shall be verified.

(4) When GSA is to conduct a site investigation, propose a significant change in the use of federally owned or leased property that may require a complete environmental assessment resulting in a negative declaration or an environmental impact statement, propose the renovation or extension of an existing federally owned building required to be authorized in accordance with the provisions of the Public Buildings Act of 1959, as amended, acquire property by exchange in connection with the construction of a public building, or issue a Solicitation for Offers in connection with a lease construction project as described in paragraph (a)(2) of this section, the GSA Regional Administrator will notify the planning agencies and the principal elected official(s) of the community where the proposed action will take place not less than 30 calendar days in advance of the initiation of such action. Only verbal notification of planning agencies is required if the site investigation is conducted within 1 year of an announcement under paragraph (c)(1) of this section. The organizations and officials so notified will have the 30-day notice period in which to consult with the GSA Regional Administrator and provide him with data and comments pertinent to the proposed action. Notifications of less than 30 calendar days are authorized only in emergency situations.

(5) When GSA takes action pursuant to § 101-47.203-7 of this chapter for the transfer of federally owned real property for a direct project requirement which involves a substantial change in the character of its use, the views of the planning agencies and the principal elected official(s) will be obtained and considered by the GSA Regional Administrator, and these views will be included on GSA Form 1334, Request for Transfer of Excess Real Property and Related Personal Property.

(6) When property is transferred for exchange purposes, the views of the planning agencies and the principal elected official(s) will be considered prior to consummation of the exchange.

(d) The provisions of paragraph (c) of this section shall not be applied when the Administrator of General Services deems that the application thereof would adversely affect the best interest of the Government.

(e) If GSA has determined that any Federal project under its jurisdiction may significantly affect the quality of the human environment, prior to a final decision concerning that project GSA will provide Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved, planning agencies which are authorized to develop and enforce environmental standards, and others as appropriate with an adequate opportunity to review such projects pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 and the regulations of the Council on Environmental Quality (CEQ).

(f) The Federal agencies, planning agencies, and others referred to in paragraph (e) of this § 101-19.100 will be notified as follows concerning Federal projects under GSA jurisdiction that are determined to have a significant effect on the human environment:

(1) GSA will transmit copies of the draft environmental statement, prepared in accordance with the provisions of National Environmental Policy Act of 1969, as amended, and the regulations of the Council on Environmental Quality to the Environmental Protection Agency, and to the Governor of the State, the U.S. Senators of the State, and the U.S. Representative from the congressional district of the State where the project will be located.

(2) Thereafter, GSA will submit copies of the draft environmental statement to the appropriate city mayor and to the Federal, State, and local planning agencies for comment. The allowable period for comment shall be 45 calendar days. If requests for extension are made a maximum period of 15 calendar days may be granted.

(3) Comments received from the Federal agencies, planning agencies, and others will be reconciled through coordination with the Federal and State agencies concerned. The environmental statement may be revised to reflect the additional data and comments obtained. A discussion of problems and objections by Federal agencies and State and local entities in the review process and the recommended disposition of the issues involved will be included in the final text of the environmental statement.

(4) Copies of the final environmental statement will be transmitted to the Environmental Protection Agency and to those persons who submitted substantive comments on the draft statement or requested copies of the final statement. Unless waived by EPA, no irreversible or irretrievable action shall be taken on a project until 30 calendar days after submission of the final statement to EPA.

(g) Through the appropriate planning agencies, Health System Agencies and State Health Planning and Development Agencies authorized to perform comprehensive health planning, pursuant to the National Health Planning and Resources Development Act of 1974, shall be provided adequate opportunity to review Federal projects for construction and/or equipment involving capital expenditures exceeding $200,000 for modernization, conversion, and expansion of Federal inpatient care facilities that alter the bed capacity or modify the primary function of the facility, as well as plans for provision of major new medical services. Projects to renovate or install mechanical systems, air-conditioning systems, or other similar internal system modifications are excluded. The comments of such agencies or a certification that the agencies were provided a reasonable time to comment and failed to do so shall accompany the plan and budget requests submitted by the Federal agency to the Office of Management and Budget.

(h) Planning agencies should advise GSA of projects which may present potential areas of joint cooperation by contacting the PBS Regional Commissioner for the region in which the project is located.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)))

[39 FR 23214, June 27, 1974, as amended at 42 FR 16779, Mar. 30, 1977; 45 FR 37206, June 2, 1980]

§ 101-19.101 Application of socioeconomic considerations.

This section provides an effective systematic arrangement to insure the availability of low- and moderate-income housing for Federal employees without discrimination because of race, color, religion, or national origin and to influence the improvement in social and economic conditions in the area of Federal buildings.

§ 101-19.101-1 Location of buildings.

(a) GSA, in all its determinations regarding the location of federally constructed buildings and the acquisition of leased buildings, will consider to the maximum possible extent the availability of low- and moderate-income housing for employees without discrimination because of race, color, religion, or national origin and will affirmatively further the purposes of Title VIII of the Civil Rights Act of 1968.

(b) Final decisions of the Administrator of General Services will be based on the determination that such decisions will improve the management and administration of governmental activities and services and will foster the programs and policies of the Federal Government.

§ 101-19.101-2 Agreement with Secretary of Housing and Urban Development.

(a) The Administrator of General Services has entered into an agreement with the Secretary of Housing and Urban Development to utilize the Department of Housing and Urban Development (HUD) to investigate, determine, and report to GSA findings on the availability of low- and moderate-income housing on a nondiscriminatory basis with respect to proposed locations for a federally constructed building or major lease action having a significant socioeconomic impact on a community.

(b) HUD shall advise GSA and other Federal agencies with respect to actions which would increase the availability of low- and moderate-income housing on a nondiscriminatory basis, after a site has been selected for a federally constructed building or a lease executed for space and shall assist in increasing the availability of such housing through its own programs.

(c) The text of the HUD-GSA agreement is located at § 101-19.4801.

§ 101-19.101-3 Consultation with HUD.

(a) In the initial selection of a city or delineation of a general area for location of public buildings or leased buildings, GSA will provide the earliest possible notice to HUD of information with respect to such decisions. Regional offices of HUD, as identified by the Secretary of Housing and Urban Development, and local planning and housing authorities will be consulted concerning the present and planned availability of low- and moderate-income housing on a nondiscriminatory basis in the area where the project is to be located during the project development investigation.

(b) Regional office representatives of HUD, as designated by the Secretary of Housing and Urban Development, will participate in site investigations for the purpose of providing a report to GSA on the availability of low- and moderate-income housing on a nondiscriminatory basis in the area of the investigation.

(c) The HUD Regional Administrator will transmit to the Regional Commissioner, PBS, his evaluation of the sites being considered. In any case in which a proposed site is deemed inadequate on one or more grounds; i.e., supply of low- and moderate-income housing on a non-discriminatory basis, nondiscrimination in the sale and rental of housing on the basis of race, color, religion, or national origin, or availability of transportation from housing to site, the HUD Regional Administrator shall include an outline of corrective actions which, in his judgment, will be required to overcome the inadequacies noted.

(d) The following actions are subject to the provisions of the HUD/GSA Memorandum of Understanding:

(1) All project development investigations.

(2) Site selections for public buildings (or leased space in buildings to be erected by the lessor) in which 100 or more low- and moderate-income employees are expected to be employed in the new building.

(3) GSA requests HUD review in actions of special importance not covered by paragraph (d)(2) of this section.

(e) The Regional Commissioner, PBS, shall promptly notify the HUD Regional Administrator after reaching a decision on the sites to be recommended for a facility and their priority. In the event any of the preferred sites are identified by HUD as inadequate on one or more of the grounds set forth in paragraph (c) of this section, the HUD Regional Administrator shall so advise the Assistant Secretary for Equal Opportunity. The Assistant Secretary will notify the Commissioner, Public Buildings Service, GSA, of HUD's concerns within 5 workdays after notification by the HUD Regional Administrator and agree on the time required to properly present HUD's view.

(f) GSA will provide a written explanation when, after headquarters' review, a location is selected which HUD reported inadequate with respect to one or more of the grounds set forth in paragraph (c) of this section, in accordance with the HUD-GSA Memorandum of Understanding.

§ 101-19.101-4 Affirmative action plan.

(a) Prior to the announcement of a site selected contrary to the recommendation of HUD, the involved Federal agency, GSA, HUD, and the community in which the proposed site is located will utilize the items indicated in the report of the HUD Regional Administrator as a basis for developing a written Affirmative Action Plan. The Affirmative Action Plan will insure that an adequate supply of low- and moderate-income housing will be available on a nondiscriminatory basis, and that there is adequate transportation from housing to the site before the building or space is to be occupied or within a period of 6 months thereafter. Such a plan will also contain appropriate provisions designed affirmatively to further nondiscrimination in the sale and rental of housing on the basis of race, color, religion, or national origin. The Affirmative Action Plan will be prepared in accordance with section 9(g) of the HUD-GSA Memorandum of Understanding, and will include the following points:

(1) The corrective actions specified by HUD under § 101-19.101-3(c).

(2) Assurance of the relocating agency that, when the old and new facilities are within the same metropolitan area, transportation will be provided for their low- and moderate-income employees between the old facility or other suitable location and the new facility at the beginning and end of the scheduled workday until sufficient new housing is built accessible to the new facility, as provided in the affirmative action plan.

(3) All agreements which constitute an Affirmative Action Plan will be set forth in writing and will be signed by the appropriate representatives of HUD, GSA, the Federal agency involved, community bodies and agencies, and other interests whose cooperation and/or participation will be necessary to fulfill the requirements of the plan.

(b) The contents of the Affirmative Action Plan will be made public after the site selection decision has been made by GSA.

(c) The HUD Regional Administrator shall be responsible for monitoring compliance with the written Affirmative Action Plan. In the event of noncompliance, HUD and GSA shall undertake appropriate action to secure compliance. The plan should provide for commitments from the community involved to initiate and carry out all feasible efforts to obtain a sufficient quantity of low- and moderate-income housing available to the agency's personnel on a nondiscriminatory basis with adequate access to the location of the building or space. It should include commitments by the local officials having the authority to remove obstacles to the provisions of such housing when such obstacles exist and to take effective steps to insure its provision. The plan should also set forth the steps proposed by the agency to develop and implement a counseling and referral service to seek out and assist personnel to obtain such housing. As part of any plan, during as well as after its development, HUD will give priority consideration to applications for assistance under its housing programs for the housing proposed to be provided in accordance with the plan.

§ 101-19.101-5 Agency compliance.

(a) Agencies shall cooperate with the Administrator of General Services and provide such information as may be necessary effectively to comply with these regulations and to cooperate with the Secretary of Housing and Urban Development affirmatively to further the purposes of Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601).

(b) As a minimum, agencies shall determine the number of positions by grade and an estimate of the number of employees whose jobs are being moved. Further details, such as family income and size, minority status, present home location, and status as head-of-household, may also be required depending upon the type, scope, and circumstances of the relocation. GSA will inform agencies concerning specific situations.

(c) Federal agencies who will relocate shall provide counseling and referral service to assist their personnel in obtaining housing. GSA and HUD will cooperate in this effort.

Subpart 101-19.2—Selection and Approval of Projects

§ 101-19.201 Determination of need.

Construction and alteration projects will be selected by the Administrator of General Services based on a continuing investigation and survey of the public building needs of the Federal Government.

§ 101-19.202 Priority of projects.

Projects shall be equitably distributed throughout the United States with due regard for the comparative urgency of the need for each project as determined by the Administrator of General Services.

§ 101-19.203 Approval of projects.

(a) All public buildings construction and alteration projects involving an expenditure in excess of $500,000 shall require approval by the Committees on Public Works of the Senate and House of Representatives.

(b) Federal agencies identifying a need for construction or alteration of a public building shall provide the necessary information, including description of the work, location, estimated maximum cost, and justification to the Administrator of General Services.

(c) The Administrator of General Services shall submit prospectuses for approval of public buildings projects to the Committees on Public Works of the Congress.

§ 101-19.204 Cooperation and assistance of Federal agencies.

(a) Federal agencies shall advise and cooperate in the compilation of information supporting a project. Such information shall include:

(1) A statement of net space occupied in public buildings by the Federal agency in the community for which the project is intended, and an itemization of area in square feet allocated to each specific agency function.

(2) A firm statement of entire space and facility requirements.

(3) Detailed information on space requiring special structural or mechanical facilities. Special use facilities for special purpose needs such as built-in and fixed equipment for laboratory, clinical, and other special use purposes must be incorporated into the project prior to submission of the prospectus.

(4) Identification of locations where space should be retained in preference to inclusion in the proposed project.

(b) Space requirements shall be based on currently authorized personnel and program activities including information on major changes anticipated within the next 5 years.

(c) Requested information shall be submitted within 60 days of the receipt of a request for such information.

(d) Agencies will not be permitted to make changes in approved space layout drawings submitted to GSA for new buildings, following established terminal dates, except where subsequent unusual and compelling agency developments make changes necessary. Requests for such changes will be submitted, over the signature of the head of the department or agency, to the Administrator of General Services for consideration.

Subpart 101-19.3—Alteration Projects

§ 101-19.301 Emergency alteration projects.

Necessary measures to insure the immediate protection of personnel and facilities and for the preservation of life and the avoidance of further property damage may be taken in an emergency prior to the submission of an alteration project prospectus.

§ 101-19.302 Prospectuses for reimbursable alteration projects.

Reimbursable alteration project prospectuses will be prepared on an "as requested" basis. A project which is to be financed in whole or in part from funds appropriated to the requesting agency may be performed without the approval of the Committes on Public Works when the agency appropriation from which payment is to be made is certified by that agency to be available without regard to the provisions of section 7 of the Public Buildings Act of 1959 (40 U.S.C. 606) and the GSA's portion of the estimated cost, if any, does not exceed $500,000.

Subpart 101-19.4—Construction Projects

§ 101-19.401 Contracting for construction.

Contracting for construction services by GSA will be in accordance with Chapter 1 (FPR) and Chapter 5B (GSPR) of this title. The method used will be that most advantageous to the Government.

§ 101-19.402 Architectural and engineering services.

(a) GSA will develop or acquire, by contract, designs and specifications for suitable buildings that will provide space that can be economically utilized and operated, and which are in harmony with surrounding structures in the community.

(b) The contract services of qualified private architects or engineers will be utilized to the fullest extent compatible with the public interest in the performance of architectural or engineering services in connection with the preparation of drawings and specifications for GSA construction projects.

(c) Executive agencies may contract for professional engineering, architectural, and landscape architectural services for projects which fall within the definition of a "public building" contained in section 13 of the Public Buildings Act of 1959 (40 U.S.C. 612) only when the Administrator of General Services has delegated his responsibilities and authorities pursuant to section 15 of that Act (40 U.S.C. 614). (See § 101-19.501 regarding delegations of authority.)

Subpart 101-19.5—Delegation of Authority

§ 101-19.501 Conditions justifying delegation.

The authorities and responsibilities of the Administrator of General Services under the provisions of the Public Buildings Act of 1959, as amended (40 U.S.C. 601-615), shall, except for the authority in section 4 of that Act, upon request, be delegated to the appropriate executive agency where the estimated cost of the project does not exceed $100,000 and may, in the Administrator's discretion, be delegated in cases exceeding that amount. (See sec. 15 of the Act.) When the estimated cost of the project exceeds $100,000, the following criteria will be applied in determining whether a delegation will be made:

(a) The staff capability of the requesting agency to negotiate and administer contracts for the various types of work involved; and

(b) Whether such a delegation will promote efficiency and economy. See § 101-19.402(c) regarding contracts for professional engineering and architectural services.

§ 101-19.502 Exercise of delegation.

Delegated work shall be performed according to standards established by the Administrator of General Services. No such delegation of authority shall exempt the person to whom it is made, or the exercise of such authority, from any provision of the Public Buildings

Act of 1959, as amended (40 U.S.C. 601-615).

Subpart 101-19.6—Accommodations for the Physically Handicapped

§ 101-19.600 Scope of subpart.

This subpart prescribes standards for the design, construction, lease, and alteration of buildings to ensure, whenever possible, that physically handicapped persons will have ready access to and use of such buildings. Recordkeeping and reporting requirements (see §§ 101-19.606 and 101-19.607) are prescribed for all projects subject to this subpart.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

[43 FR 16479, Apr. 19, 1978]

§ 101-19.601 Authority and applicability.

This subpart implements Pub. L. 90-480, approved August 12, 1968, as amended (42 U.S.C. 4151, et seq.). The standards prescribed herein shall apply to all Federal agencies and instrumentalities and to non-Federal organizations to the extent provided in the Act.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

[43 FR 16479, Apr. 19, 1978]

§ 101-19.602 Definitions.

The following definitions shall apply to this Subpart 101-19.6:

(a) "Building" means any building or facility (other than a privately owned residential structure not leased by the Government for subsidized housing programs and any building or facility on a military installation designed and constructed primarily for use by able-bodied military personnel) the intended use for which will require either that the building or facility be accessible to the public or may result in the employment therein of physically handicapped persons, which is to be:

(1) Constructed or altered by, or on behalf of, the United States after September 2, 1969;

(2) Leased in whole or in part by the United States between August 12, 1968, and December 31, 1976, if constructed or altered in accordance with plans and specifications of the United States;

(3) Financed in whole or in part by a grant or a loan made by the United States after August 12, 1968, if the building or facility is subject to standards for design, construction, or alteration issued under authority of the law authorizing such a grant or loan;

(4) Constructed under authority of the National Capital Transportation Act of 1960, the National Capital Transportation Act of 1965, or title III of the Washington Metropolitan Area Transit Regulation Compact; or

(5) Leased in whole or in part by the United States after January 1, 1977, including any renewal, succeeding, or superseding lease.

(b) "Alteration" means repairing, improving, remodeling, extending, or otherwise changing a building.

(c) The terms "bid" and "bidder" shall be construed to include "offer" and "offeror ".

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

[39 FR 23214, June 27, 1974, as amended at 43 FR 16479, Apr. 19, 1978]

§ 101-19.603 Standards. [1]

Except as provided in § 101-19.604, every building shall be designed, constructed, or altered in accordance with the minimum standards in the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," published by the American National Standards Institute, Inc. (ANSI A117.1-1961 (1971)). Departures from particular requirements of these standards by the use of other methods will be permitted when it is clearly evident that equivalent accessibility and usability of the facility is thereby provided.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

[43 FR 16479, Apr. 19, 1978]

§ 101-19.604 Exceptions. [1]

The standards established in § 101-19.603 shall not apply to:

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[1] See Temporary Regulation D-66 in the appendix to Subchapter D for temporary changes to §§ 101-19.603 and 101-19.604.

(a) The design, construction, alteration, or lease of any portion of a building which need not, because of its intended use, be made accessible to, or usable by, the public or by physically handicapped persons;

(b) The alteration of an existing building if the alteration does not involve the installation of, or work on, existing stairs, doors, elevators, toilets, entrances, drinking fountains, floors, telephone locations, curbs, parking areas, or any other facilities susceptible of installation or improvements to accommodate the physically handicapped;

(c) The alteration of an existing building, or of portions thereof, to which application of the standards is not structurally possible;

(d) The construction or alteration of a building for which plans and specifications were completed or substantially completed on or before September 2, 1969: *Provided, however,* that any building defined in § 101-19.602(a)(4) shall be designed, constructed, or altered in accordance with the standards prescribed in § 101-19.603 regardless of design status or bid solicitation as of September 2, 1969; and

(e) The leasing of space when after receipt of bids or offers it is determined that no otherwise legally acceptable proposal substantially meets the requirements of each of the following sections of the ANSI standards with respect to the space to be leased:

(1) Section 1, Scope and Purpose;

(2) Section 2, Definitions;

(3) Section 3, General Principles and Considerations;

(4) Section 4, Site Development; and

(5) Section 5, Buildings, subsections (in entirely unless noted) 5.1, 5.2, 5.3, 5.4.2, 5.4.3, 5.5, 5.6, 5.7, and 5.9. If more than one offeror or bidder meets the requirements of the sections listed in paragraph (e) of this section, then preference shall be given to the offeror or bidder who most nearly complies with the standard prescribed in § 101-19.603. If the award is proposed to a firm other than the one offering space that most nearly complies with the full ANSI standards and whose bid or offer is reasonable as to price and otherwise legally acceptable, a waiver or modification of those standards which could have been met, but which are not being furnished, must be obtained.

(Sec. 205 (c), 63 Stat. 1390, 40 U.S.C. 486(c))

[39 FR 23214, June 27, 1974, as amended at 43 FR 16479, Apr. 19, 1978]

§ 101-19.605 Waiver or modification of standards.

The applicability of the standards set forth in this subpart may be modified or waived on a case-by-case basis upon application to GSA by the head of the department, agency, or instrumentality of the United States concerned only if the Administrator of General Services determines that such waiver of modification is clearly necessary.

§ 101-19.606 Recordkeeping.

The administering agency's file on each contract or grant for the design, construction, lease, or alteration of a building as defined in § 101-19.602 shall be documented with a statement either: (a) That the standards are applicable to and have been or will be incorporated in the design, the construction, or the alteration, (b) that the grant has been or will be made subject to a requirement that the standards will be incorporated in the design, the construction, or the alteration; (c) that the standards have been waived by the Administrator of General Services (in which event the justification for the waiver shall be stated); (d) that the project is within one of the exceptions set out in § 101-19.604 (the specific exception shall be identified and justified); or (e) such other statements as may be appropriate with respect to application of the standards to the contract or grant. The head of each agency shall be responsible for implementing the file documentation requirement by regulation or other appropriate means. The documentation shall be made available to the Administrator of General Services upon request.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

[43 FR 16480, Apr. 19, 1978]

§ 101-19.607 Reporting.

(a) Every 6 months, each administering agency shall prepare and submit to the Administrator of General Services reports covering all projects subject to the requirements of this Subpart 101-19.6 for which funds have been appropriated or for which a contract, grant, or loan has been approved (whichever is applicable) and which are still under design or construction, or buildings for which lease contracts have been awarded. Once a project has been reported as being occupied, it need not be included in subsequent reports. Lease projects need to be reported only during the period in which the award was made. Reports on leased buildings should be made on GSA Form 2974A, Accessibility to the Physically Handicapped in Leased Buildings. Interagency report control number 0219-GSA-SA has been assigned to this report. All other reports should be prepared on GSA Form 2974, Status Report for Federally Funded Buildings—Accommodation of Physically Handicapped. Interagency report control number 0031-GSA-SA has been assigned to this report.

(b) The semiannual reporting periods, for purposes of this requirement, end on the last day of February and August. Reports will be due on the fifteenth calendar day of the following month. The initial report will cover facilities subject to this reporting requirement during the period from June 30, 1971, through August 31, 1974.

(c) Reports will be used for surveys and investigations to ensure compliance with The Architectural Barriers Act, as amended, pursuant to the requirements of the act.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

[44 FR 39393, July 6, 1979]

Subparts 101-19.7—101-19.47 [Reserved]

Subpart 101-19.48—Exhibits

§ 101-19.4800 Scope of subpart.

This Subpart 101-19.48 illustrates information referred to in the text of Part 101-19 but not suitable for inclusion elsewhere in that part.

§ 101-19.4801 Memorandum of understanding between the Department of Housing and Urban Development and the General Services Administration concerning low- and moderate-income housing.

MEMORANDUM OF UNDERSTANDING BETWEEN THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND THE GENERAL SERVICES ADMINISTRATION CONCERNING LOW- AND MODERATE-INCOME HOUSING

Purpose. The purpose of the memorandum of understanding is to provide an effective, systematic arrangement under which the Federal Government, acting through HUD and GSA, will fulfill its responsibilities under law, and as a major employer, in accordance with the concepts of good management, to assure for its employees the availability of low- and moderate-income housing without discrimination because of race, color, religion, or national origin, and to consider the need for development and redevelopment of areas and the development of new communities and the impact on improving social and economic conditions in the area, whenever Federal Government facilities locate or relocate at new sites, and to use its resources and authority to aid in the achievement of these objectives.

1. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601) states, in section 801, that "It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States." Section 808(a) places the authority and responsibility for administering the Act in the Secretary of Housing and Urban Development. Section 808(d) requires all executive departments and agencies to administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of title VIII (fair housing) and to cooperate with the Secretary to further such purposes. Section 808(e)(5) provides that the Secretary of HUD shall administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of Title VIII.

2. Section 2 of the Housing Act of 1949 (42 U.S.C. 1441) declares the national policy of "* * * the realization as soon as feasible of the goal of a decent home and a suitable living environment for every American family * * *." This goal was reaffirmed in the Housing and Urban Development Act of 1968 (sections 2 and 1601; 12 U.S.C. 1701t and 42 U.S.C. 1441a).

3. By virtue of the Public Buildings Act of 1959, as amended; the Federal Property and Administrative Services Act of 1949, as amended; and Reorganization Plan No. 18 of 1950, the Administrator of General Services is given certain authority and responsibility in connection with planning, developing, and constructing Government-owned public buildings for housing Federal agencies, and for acquiring leased space for Federal agency use.

4. Executive Order No. 11512, February 27, 1970, sets forth the policies by which the Administrator of General Services and the heads of executive agencies will be guided in the acquisition of both federally owned and leased office buildings and space.

5. While Executive Order No. 11512 provides that material consideration will be given to the efficient performance of the missions and programs of the executive agencies and the nature and functions of the facilities involved, there are six other guidelines set forth, including:

The need for development and redevelopment of areas and the development of new communities, and the impact a selection will have on improving social and economic conditions in the area; and

The availability of adequate low- and moderate-income housing, adequate access from other areas of the urban center, and adequacy of parking.

6. General Services Administration (GSA) recognizes its responsibility, in all its determinations with respect to the construction of Federal buildings and the acquisition of leased space, to consider to the maximum possible extent the availability of low- and moderate-income housing without discrimination because of race, color, religion, or national origin, in accordance with its duty affirmatively to further the purposes of title VIII of the Civil Rights Act of 1968 and with the authorities referred to in paragraph 2 above, and the guidelines referred to in paragraph 5 above, and consistent with the authorities cited in paragraphs 3 and 4 above. In connection with the foregoing statement, it is recognized that all the guidelines must be considered in each case, with the ultimate decision to be made by the Administrator of General Services upon his determination that such decision will improve the management and administration of governmental activities and services, and will foster the programs and policies of the Federal Government.

7. In addition to its fair housing responsibilities, the responsibilities of HUD include assisting in the development of the Nation's housing supply through programs of mortgage insurance, home ownership and rental housing assistance, rent supplements, below market interest rates, and low-rent public housing. Additional HUD program responsibilities which relate or impinge upon housing and community development include comprehensive planning assistance, metropolitan area planning coordination, new communities, relocation, urban renewal, model cities, rehabilitation loans and grants, neighborhood facilities grants, water and sewer grants, open space, public facilities loans, Operation BREAKTHROUGH, code enforcement, workable programs, and others.

8. In view of its responsibilities described in paragraphs 1 and 7 above, HUD possesses the necessary expertise to investigate, determine, and report to GSA on the availability of low- and moderate-income housing on a nondiscriminatory basis and to make findings as to such availability with respect to proposed locations for a federally-constructed building or leased space which would be consistent with such reports. HUD also possesses the necessary expertise to advise GSA and other Federal agencies with respect to actions which would increase the availability of low- and moderate-income housing on a nondiscriminatory basis, once a site has been selected for a federally-constructed building or a lease executed for space, as well as to assist in increasing the availability of such housing through its own programs such as those described in paragraph 7 above.

9. HUD and GSA agree that:

(a) GSA will pursue the achievement of low- and moderate-income housing objectives and fair housing objectives, in accordance with its responsibilities recognized in paragraph 6 above, in all determinations, tentative and final, with respect to the location of both federally constructed buildings and leased buildings and space, and will make all reasonable efforts to make this policy known to all persons, organizations, agencies and others concerned with federally owned and leased buildings and space in a manner which will aid in achieving such objectives.

(b) In view of the importance to the achievement of the objectives of this memorandum of agreement of the initial selection of a city or delineation of a general area for location of public buildings or leased space, GSA will provide the earliest possible notice to HUD of information with respect to such decisions so that HUD can carry out its responsibilities under this memorandum of agreement as effectively as possible.

(c) Government-owned Public Buildings Projects:

(1) In the planning for each new public buildings project under the Public Buildings Act of 1959, during the survey preliminary to the preparation and submission of a project development report, representatives of the regional office of GSA in which the project is proposed will consult with, and receive advice from, the regional office of

HUD, and local planning and housing authorities concerning the present and planned availability of low- and moderate-income housing on a nondiscriminatory basis in the area where the project is to be located. Such advice will constitute the principal basis for GSA's consideration of the availability of such housing in accordance with paragraphs 6 and 9(a). A copy of the prospectus for each project which is authorized by the Committees on Public Works of the Congress in accordance with the requirements of section 7(a) of the Public Buildings Act of 1959, will be provided to HUD.

(2) When a site investigation for an authorized public buildings project is conducted by regional representatives of GSA to identify a site on which the public building will be constructed, a representative from the regional office of HUD will participate in the site investigation for the purposes of providing a report on the availability of low- and moderate-income housing on a nondiscriminatory basis in the area of the investigation. Such report will constitute the principal basis for GSA's consideration of the availability of such housing in accordance with paragraphs 6 and 9(a).

(d) Major lease actions having a significant socioeconomic impact on a community: At the time GSA and the agencies who will occupy the space have tentatively delineated the general area in which the leased space must be located in order that the agencies may effectively perform their missions and programs, the regional representative of HUD will be consulted by the regional representative of GSA who is responsible for the leasing action to obtain advice from HUD concerning the availability of low- and moderate-income housing on a nondiscriminatory basis to the delineated area. Such advice will constitute the principal basis for GSA's consideration of the availability of such housing in accordance with paragraphs 6 and 9(a). Copies of lease-construction prospectuses approved by the Committees on Public Works of the Congress in conformity with the provisions of the Independent Offices and Department of Housing and Urban Development appropriation acts, will be provided to HUD.

(e) GSA and HUD will each issue internal operating procedures to implement this memorandum of understanding within a reasonable time after its execution. These procedures shall recognize the right of HUD, in the event of a disagreement between HUD and GSA representatives at the area or regional level, to bring such disagreement to the attention of GSA officials at headquarters in sufficient time to assure full consideration of HUD's views, prior to the making of a determination by GSA.

(f) In the event a decision is made by GSA as to the location of a federally constructed building or leased space, and HUD has made findings, expressed in the advice given or a report made to GSA, that the availability to such location of low- and moderate-income housing on a nondiscriminatory basis is inadequate, the GSA shall provide the DHUD with a written explanation why the location was selected.

(g) Whenever the advice or report provided by HUD in accordance with paragraph 9(c)(1), 9(c)(2), or 9(d) with respect to an area or site indicates that the supply of low- and moderate-income housing on a nondiscriminatory basis is inadequate to meet the needs of the personnel of the agency involved, GSA and HUD will develop an affirmative action plan designed to insure that an adequate supply of such housing will be available before the building or space is to be occupied or within a period of 6 months thereafter. The plan should provide for commitments from the community involved to initiate and carry out all feasible efforts to obtain a sufficient quantity of low- and moderate-income housing available to the agency's personnel on a nondiscriminatory basis with adequate access to the location of the building or space. It should include commitments by the local officials having the authority to remove obstacles to the provision of such housing, when such obstacles exist, and to take effective steps to assure its provision. The plan should also set forth the steps proposed by the agency to develop and implement a counseling and referral service to seek out and assist its personnel to obtain such housinng. As part of any plan during, as well as after its development, HUD agrees to give priority consideration to applications for assistance under its housing programs for the housing proposed to be provided in accordance with the plan.

10. This memorandum will be reviewed at the end of 1 year, and modified to incorporate any provision necessary to improve its effectiveness in light of actual experience.

Subpart 101-19.49—Illustration of Forms

§ 101-19.4900 Scope of subpart.

This subpart illustrates forms prescribed or available for use in connection with subject matter covered in other parts of Part 101-19.

§ 101-19.4901 [Reserved]

§ 101-19.4902 GSA forms.

(a) The GSA forms are illustrated in this § 101-19.4902 to show their text, format, and arrangement and to provide a ready source of reference. The subsection numbers in this section correspond with the GSA form numbers.

(b) Agency field offices may obtain their initial supply of GSA Form 2974, Status Report for Federally Funded Buildings—Accommodation of Physically Handicapped, August 1978, and GSA Form 2974A, Accessibility to the Physically Handicapped in Leased Buildings, August 1978, from General Services Administration (3BRDD), Union and Franklin Streets Annex, Building 11, Alexandria, VA 22314. Agency field offices should submit all future requirements to their Washington headquarters office, which will then forward consolidated annual requirements to General Services Administration (BROS), Washington, DC 20405.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

[39 FR 23214, June 27, 1974, as amended at 44 FR 39393, July 6, 1979]

§ 101-19.4902-2974 GSA Form 2974, Status Report for Federally Funded Buildings—Accommodation of Physically Handicapped.

NOTE: The form illustrated in this § 101-19.4902—2974 is filed with the original document and does not appear in this volume.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

[44 FR 39393, July 6, 1979]

§ 101-19.4902-2974A GSA Form 2974-A, Accessibility to the Physically Handicapped in Leased Buildings.

NOTE: The form illustrated in this § 101-19.4902—2974A filed with the original document and does not appear in this volume.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

[44 FR 39393, July 6, 1979]

PART 101-20—MANAGEMENT OF BUILDINGS AND GROUNDS

Sec.
101-20.000 Scope of part.
101-20.001 Authority.
101-20.002 Basic policy.
101-20.003 Definition of terms.
101-20.003-1 Maintenance.
101-20.003-2 Alteration.
101-20.003-2a Repair.
101-20.003-2b Extension.
101-20.003-2c Conversion.
101-20.003-2d Initial space alterations.
101-20.003-2e Special space alterations.
Sec.
101-20.003-2f Space adjustment.
101-20.003-3—101-20.003-6 [Reserved]
101-20.003-7 Sidewalk.
101-20.003-8 State.
101-20.003-9 Furniture and furnishings.
101-20.003-10 Facility Self-Protection Plan.
101-20.003-11 Facility Self-Protection Organization.
101-20.003-12 Emergency.
101-20.003-13 Flame-Retardant.
101-20.003-14 Noncombustible.

Subpart 101-20.1—Building Operations, Maintenance, Protection, and Alterations

101-20.100 General.
101-20.101 Building operations and maintenance.
101-20.102 Repairs and initial space alterations.
101-20.103 Leased buildings.
101-20.104 Physical protection and building security.
101-20.105 Reimbursable services.
101-20.106 Furniture and furnishings.
101-20.106-1 Responsibility for financing.
101-20.106-2 Funding for moving.
101-20.106-3 Moving of furniture and furnishings.
101-20.106-4 Determinations.
101-20.106-5 Furniture control.
101-20.107 Conservation of services.
101-20.108 Door title cards and holders.
101-20.109 Accident and fire prevention.
101-20.109-1 Policy.
101-20.109-2 Responsibility of GSA.
101-20.109-3 Responsibilities of agencies.
101-20.109-4 Exits.
101-20.109-5 Housekeeping and orderliness.
101-20.109-6 Occupancy hazards.
101-20.109-7 Draperies and curtains.
101-20.109-8 Decorations and displays.
101-20.109-9 Movable partitions.
101-20.109-10 Regulation of smoking.
101-20.109-11 Accident prevention and fire protection activities of occupant agencies.
101-20.109-12 Correction of hazardous conditions.
101-20.110 Employee-owned electrical equipment.
101-20.111 Vehicle parking facilities.
101-20.111-1 General.
101-20.111-2 Policy.
101-20.111-2a Priority of assignment of parking spaces.
101-20.111-2b Increased utilization of parking facilities.
101-20.111-2c Billing for assigned vehicle parking spaces.
101-20.111-3 Parking space allotments.
101-20.112 Concessions.
101-20.112-1 Applicability.

Sec.
101-20.112-2 General.
101-20.112-3 Transferred buildings.
101-20.112-4 Supervision.
101-20.112-5 Determination of need.
101-20.112-6 Scheduling patronage.
101-20.112-7 Safety, cleanliness, and sanitation.
101-20.112-8 Music.
101-20.113 Staggering hours of duty in Metropolitan Washington.
101-20.114 Newly constructed buildings.
101-20.115 Property pass.
101-20.116 Conservation of energy by executive agencies.
101-20.116-1 Agency action.
101-20.116-2 Lighting conservation policies and procedures.
101-20.116-3 Cooling and heating energy conservation policies and procedures.
101-20.116-4 Exceptions.
101-20.116-5 Conservation of energy in leased space.
101-20.116-6 Reporting requirements.
101-20.117 Carpool parking.
101-20.117-1 Definitions.
101-20.117-2 Policies.
101-20.117-3 Leased or contractor-operated parking spaces.
101-20.117-4 Guidelines for implementation.

Subpart 101-20.2—Vending Stands Operated by Blind Persons

101-20.200 Scope of subpart.
101-20.201 Policy.
101-20.202 Cooperation in establishing facilities.
101-20.203 Leased property.
101-20.204 Application for permits.
101-20.205 Terms of permit.
101-20.206 Protection from competition.
101-20.207 Enforcement procedures.
101-20.208 Review.
101-20.209 Report.

Subpart 101-20.3—Conduct on Federal Property

101-20.300 Applicability.
101-20.301 Inspection.
101-20.302 Admission to property.
101-20.303 Preservation of property.
101-20.304 Conformity with signs and directions.
101-20.305 Disturbances.
101-20.306 Gambling.
101-20.307 Alcoholic beverages and narcotics.
101-20.308 Soliciting, vending, and debt collection.
101-20.309 Distribution of handbills.
101-20.310 Photographs for news, advertising, or commercial purposes.
101-20.311 Dogs and other animals.
Sec.
101-20.312 Vehicular and pedestrian traffic.
101-20.313 Weapons and explosives.
101-20.314 Nondiscrimination.
101-20.315 Penalties and other laws.

Subpart 101-20.4—[Reserved]

Subpart 101-20.5—Physical Protection

101-20.500 Scope of subpart.
101-20.501 Basic policy.
101-20.502 Protection criteria.
101-20.503 GSA responsibilities.
101-20.503-1 Physical protection.
101-20.503-2 Investigations.
101-20.503-3 Crime prevention.
101-20.504 Responsibilities of occupant agencies.
101-20.504-1 General.
101-20.504-2 Occupant Emergency Program.
101-20.504-3 Definitions.
101-20.504-4 Responsibilities.
101-20.504-5 Initiating action.

Subpart 101-20.6—Sidewalk Installation, Repair, and Replacement

101-20.600 Scope of subpart.
101-20.601 Responsibilities.
101-20.602 Standards.
101-20.603 Fund availability.
101-20.604 Tort liability.

Subpart 101-20.7—Occasional Use of Public Areas in Public Buildings

101-20.700 Scope of subpart.
101-20.701 Definitions.
101-20.702 Permits.
101-20.703 Disapproval of application or cancellation of permit.
101-20.704 Appeals from disapproval of application or cancellation of permit.
101-20.705 Schedule of use.
101-20.706 Services and costs.
101-20.707 Restrictions on behavior.
101-20.708 Posting of notices and information bulletins.
101-20.709 Nonaffiliation with the Government.

AUTHORITY: (40 U.S.C. 1, 19, 281, 285); (20 U.S.C. 107 et seq.); (40 U.S.C. 130, 291, 318 et seq.); 63 Stat. 377, (40 U.S.C. 490 note); 73 Stat. 479, (40 U.S.C. 601 et seq.), unless otherwise noted.

SOURCE: 39 FR 23221 June 27, 1974, unless otherwise noted.

§ 101-20.000 Scope of part.

The regulations in this part prescribe policies and procedures which GSA provides for the management, operation, protection, and maintenance of Government-owned and leased buildings and grounds required by the Federal agencies to undertake their assigned missions.

§ 101-20.001 Authority.

This Part 101-20 implements the Act of July 1, 1898 (40 U.S.C. 285); the Act of April 28, 1902 (40 U.S.C. 19); the Act of March 1, 1919 (40 U.S.C. 1); the Act of June 23, 1923 (40 U.S.C. 281); the Act of May 27, 1924 (D.C. Code, 1961 ed., 4-208); the Act of June 20, 1936 (20 U.S.C. 107 et seq.); the Act of December 10, 1941 (40 U.S.C. 291); the Act of May 14, 1948 (40 U.S.C. 130); the Act of June 1, 1948 (40 U.S.C. 318 et seq.); the Federal Property and Administrative Services Act of 1949 (63 Stat. 377 as amended); the Reorganization Plan No. 18 of 1950 (40 U.S.C. 490 note; 3 CFR); the Public Building Act of 1950 (73 Stat. 479) as amended; and the Public Buildings Amendments of 1972 (40 U.S.C. 602a).

§ 101-20.002 Basic policy.

It is the policy of GSA, with due regard for the program activities of the agencies concerned and the best interest of the Government, to provide or otherwise arrange for improvements, alterations, repairs, and necessary services required to house occupant agencies and permit them to carry out their programs in an efficient manner.

§ 101-20.003 Definition of terms.

The following definitions are established for terms used in this Subchapter D.

§ 101-20.003-1 Maintenance.

"Maintenance" means to preserve or keep in an existing state or condition by periodic or occasional inspection, adjustment, lubrication, cleaning, and making necessary minor repairs. Ordinary maintenance is that routine recurring work which is incidental to everyday operations. Preventive maintenance is that work which is programed at scheduled intervals.

§ 101-20.003-2 Alteration.

"Alteration" means repairing, remodeling, improving, extending, or making other changes in a public building, exclusive of maintenance repairs which are preventative in nature.

§ 101-20.003-2a Repair.

"Repair" means the restoration of a facility to a condition substantially equivalent to its original state and efficiency. The distinction is made that whereas maintenance is preventive, repairs are curative. Repairs may involve replacement of a component unit in whole or in part if the new unit substituted is no better than the replaced unit was when it was acquired. Routine and incidental replacements of parts constitute ordinary repairs; extensive replacements of parts constitute extraordinary repairs.

§ 101-20.003-2b Extension.

"Extension" means an addition or enlargement of an existing building which results in an increase in capacity.

§ 101-20.003-2c Conversion.

"Conversion" includes the redesign, remodeling, and conversion of a building or part of a building from one use to another; e.g., hospital or warehouse to office space.

§ 101-20.003-2d Initial space alterations.

"Initial space alterations" are those alterations provided by GSA as part of the standard levels of service prescribed in paragraph (c) of § 101-20.102.

§ 101-20.003-2e Special space alterations.

"Special space alterations" are those alterations required by occupant agencies that are above the standard levels provided by GSA.

§ 101-20.003-2f Space adjustment.

"Space adjustment" means a rearrangement of space or relocation of equipment which does not increase building capacity or improve its quality. A "space adjustment" is made usually to accommodate a specific agency operation or to permit the most efficient use of space and facilities.

§§ 101-20.003-3—101-20.003-6 [Reserved]

§ 101-20.003-7 Sidewalk.

"Sidewalk" means the walkway for pedestrians (which may be within or outside the Government property line) around buildings, installations, properties, or grounds owned by the United States.

§ 101-20.003-8 State.

"State" means the 50 States, political subdivisions thereof, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

§ 101-20.003-9 Furniture and furnishings.

The term "furniture and furnishings" means items normally required in office occupancy, such as desks, tables, chairs, costumers, file cabinets, bookcases, and may include special floor coverings. It does not include desk top items, office machines, or labor-saving devices; nor special desks, tables, or cabinets involved in the use of such equipment; nor items peculiar to an agency's specialized functions.

§ 101-20.003-10 Facility Self-Protection Plan.

"Facility Self-Protection Plan" means a plan that will provide for the protection of life and property during all types of emergencies.

§ 101-20.003-11 Facility Self-Protection Organization.

"Facility Self-Protection Organization" means an organization of employees of a Federal agency(ies) in a building designated to carry out the requirements established in the Facility Self-Protection Plan.

§ 101-20.003-12 Emergency.

"Emergency" includes situations occasioned by bomb threats, civil disorders, fires, explosions, natural disasters, and potential or actual enemy attack.

§ 101-20.003-13 Flame-Retardant.

"Flame-Retardant" shall mean fabrics or films (e.g., thin plastic sheets, cellophane, etc.) that are difficult to ignite, do not spread flame beyond the area exposed, and do not drop flaming parts. Flame-retardant materials shall meet the performance described for the small scale test in National Fire Protection Association Standard No. 701, Standard Method of Fire Test for Flame-Resistant Textile Fabrics or Films. Fabrics or films tested by the National Bureau of Standards or an independent testing laboratory meeting the above requirements using the small scale test as described in NFPA Standard No. 701, or using the test method described in Method No. 5903, Federal Specification CCC-T-191b, Textile Test Methods, are flame-retardant by this definition. In addition, materials labeled as flame-retardant fabrics by Underwriters' Laboratories, Inc., conform with this definition. In any instance where flame-retardance has been provided by chemical treatment, retesting is required after each laundering or cleaning.

§ 101-20.003-14 Noncombustible.

"Noncombustible" includes the following:

(a) Those materials universally accepted as noncombustible such as iron, steel, aluminum, brick, concrete, glass, plaster, and asbestos. Such materials are accepted as noncombustible without proof.

(b) Rigid materials, all surfaces of which have fire hazard ratings not exceeding 25 for flame spread and 150 for smoke development when tested in accordance with American Society for Testing and Materials, Test E 84, Surface Burning Characteristics of Building Materials. For materials to be in the building permanently or for extended periods of time, the fire hazard rating requirements also apply to any core materials. Materials bearing the label of Underwriters' Laboratories, Inc., as having flame spread ratings of not over 25 and smoke development ratings of not over 150 meet these requirements.

(c) Fabrics and films which do not burn, propagate flame, or drop flaming particles when tested in accordance with § 101-20.003-13.

Noncombustible fabrics may be determined by the use of the test method described in § 101-20.003-13, or if labeled as noncombustible fabrics by Underwriters' Laboratories, Inc.

Subpart 101-20.1—Building Operations, Maintenance, Protection, and Alterations

§ 101-20.100 General.

(a) Sections 101-20.101 through 101-20.104 of this subpart describe the standard levels of service which are provided as part of the standard level user charge. Section 101-20.105 describes reimbursable services. Sections 101-20.106 through 101-20.115 prescribe the standards to be applied and the services to be provided in managing buildings and grounds for which GSA has space asignment responsibility. Sections 101-20.116 and 101-20.117 prescribe energy conservation regulations for the Federal Government with respect to buildings.

(b) Consultations will be held with all occupant agencies that are in a building where extensive alterations, major repairs, or both are proposed to be undertaken which will generally upgrade the quality level rating of that building. Such consultations will not be required where only structural or utility systems repairs or alterations are needed. Where GSA proposes to change significantly the standard levels of service; for example, cleaning or protection, similar consultations will be held with occupant agencies. GSA will consider the comments of occupant agencies before a final decision is made on such proposed repairs, alterations, or operations and maintenance changes. In providing services, GSA will furnish the necessary labor, material, sure the efficient operation and maintenance of the building equipment and systems.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

[42 FR 56121, Oct. 21, 1977]

§ 101-20.101 Building operations and maintenance.

GSA shall provide the following:

(a) Cleaning for all types of space at a level equivalent to the cleaning furnished commercially for similar types of space within the service levels prescribed in § 101-21.300.

(b) Maintenance and repairs of exterior grounds, sidewalks, driveways, and parking areas.

(c) Illumination levels that are adequate for the task being performed and in accordance with recognized GSA standards.

(d) Adequate heating in office, court, postal, special, and similar space during the heating season and within the service levels prescribed in § 101-21.300. In storage, parking, and similar space, suitable temperature shall be maintained for type of use.

(e) Adequate air-conditioning in office, court, postal, special, and similar space in air-conditioned buildings during the air-conditioning season and within the service levels prescribed in § 101-21.300. Storage, parking, and similar space will not normally be furnished air-conditioning but shall be provided with adequate mechanically supplied ventilation.

(f) One duplex electrical receptacle and one telephone outlet per 100 occupiable square feet in office and special space, upon request, except in areas such as warehouses, storage areas, auditoriums, and gymnasiums where these receptacles and outlets are not normally provided. Electricity will be provided for office appliances and machines, including vending machines used by occupants.

(g) Adequate plumbing and sewerage systems in compliance with applicable GSA standards, and hot and cold running water in toilet rooms. Drinking water at suitable temperatures will be furnished in standard fountains or refrigerated water coolers.

(h) Adequate passenger and freight service with either manually or automatically operated elevators or similar systems.

(i) Arrangements for raising and lowering the U.S. flags at appropriate times in Government-owned facilities and in leased facilities where the Federal Government is the sole occupant.

(j) Safety services, including the maintenance of a safe environment; removing, safeguarding, or correcting conditions hazardous to persons or property; and maintaining in a state of adequacy and readiness all safety and fire protection devices, equipment, and systems.

(k) Maintenance of building equipment, such as directory and bulletin boards at the main entrances, central clock systems, door closers, window shades or venetian blinds, and door keys, and changing of locks except those changed for security purposes.

§ 101-20.102 Repairs and initial space alterations.

GSA shall arrange for:

(a) Repainting office, court, postal, joint-use, and similar space at least once every 5 years, and repainting public areas in these spaces once every 3 years. Additional painting will be performed on a reimbursable basis.

(b) Initial space alterations, improvements, and repairs to buildings and facilities as necessary to protect building occupants, visitors, operational continuity of the agencies housed, and the investment of the Government within the limit of funds available therefor. Such work shall be performed in leased premises by GSA to the extent that the Government is responsible therefor under the provisions of the lease; and to the extent that the limitations of section 322 of the Economy Act (40 U.S.C. 278a) are not exceeded except as otherwise provided by law.

(c) Initial space alterations (1) comparable to those normally provided by the commercial sector for new occupants in buildings for which GSA has assignment responsibility or (2) to the extent necessary as a result of moves ordered by GSA in the assignment or reassignment of space.

§ 101-20.103 Leased buildings.

Space and service in leased buildings will be based on the same standards and levels of services provided in Government-owned space. However, the scope of the operation and maintenance performed by GSA will be predicated on the extent of the lessor's liability therefor under the terms of the lease. Agencies are not authorized to negotiate with lessors for alterations or building services without prior approval of GSA, except as provided in § 101-20.105(a).

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

[45 FR 22932, Apr. 4, 1980]

§ 101-20.104 Physical protection and building security.

(a) There will be furnished physical protection to provide for the safety of those using the facilities, for maintaining order, for safeguarding the Government's interest in the facilities, and for otherwise forestalling interference with the normal process of the Government. Subpart 101-20.5 prescribes policies and procedures for the physical protection of space under the assignment responsibility of GSA.

(b) Security protection beyond that provided under normal coverage can be made available on a reimbursable basis at the request of the occupants.

§ 101-20.105 Reimbursable services.

Services over and above those prescribed in §§ 101-20.101, 101-20.102, 101-20.103, and 101-20.104 or those services that are requested by and performed for the convenience of occupant agencies shall be provided or arranged for by GSA on a reimbursable basis, except as provided in paragraph (a) of this section. These services include:

(a) Special space alterations required by occupant agencies above the standard level provided by GSA and prescribed in § 101-20.102. Where GSA has operative indefinite quantity contracts and unit price agreements for accomplishment of space alterations in Government-owned and -leased buildings, respectively, agencies may order against these contracts and agreements. Agencies wishing to avail themselves of this authority shall submit names and addresses of proposed ordering officials and their alternates to the GSA buildings manager who will submit them to the GSA contracting officer. Each agency shall be limited to one designated ordering official and one alternate in any building. The contracting officer shall appoint in writing the ordering official and alternate by name and will authorize the contractor to accept orders from only the designated ordering official or alternate. The GSA contracting officer shall advise the agencies' ordering officials and their alternates in writing of their responsibilities, authorities, and limitations under these contracts and agreements. Designated agency ordering officials may, with the prior written approval of the GSA buildings manager on each order, order special space alteration services available under thse contracts and agreements. No individual order or combination of orders for a special space alteration project shall exceed $1,000 shall not be split into several orders of less than $1,000. Agencies shall use Standard Form 147, GSA Form 300 or any other approved purchasing document to order special space alteration services under these contracts and agreements. Agencies shall be responsible for inspecting and certifying satisfactory completion of the ordered work and for contractor compliance with the provisions of the indefinite quantity contract or unit price agreements. Agencies shall institute procedures which are adequate to ensure separation of the ordering process from the inspection and acceptance process. Agencies may not negotiate with indefinite quantity contractors or lessors for items not specifically priced under these contracts or agreements. Agency ordering officials shall furnish at the appropriate time one copy each of the ordering document and final payment document to the buildings manager and to the GSA contracting officer. The final payment voucher shall be supported with the following documents.

(1) GSA Form 1142, Release of Claims or equivalent forms.

(2) Certification that the work has been inspected and accepted and meets the provisions of the contract, and that the contractor has complied with all provisions of the contract in regards to the subject delivery order.

(b) Security guarding and protection of classified records and property.

(c) Installation, operation, maintenance, and repair of burglar alarms and other automatic protective devices and systems for security protection due to the special nature of an agency's activities.

(d) Utilities for heating, air-conditioning, and specialized equipment such as printing machines and computers over and above the standard levels prescribed in § 101-21.300.

(e) Construction, installation, operation, maintenance, and repair of agency program equipment.

(f) Construction, installation, and maintenance of exhibits.

(g) Washing and polishing furniture and cleaning inside file cabinets, bookcases, desks, and other personal property.

(h) Space adjustments requested by an agency for its convenience in rearranging, expanding, relocating, or consolidating activities, subject to approval of the changes by GSA. (Approval is based on engineering and structural limitations of the building and limitations due to lease provisions or law. All such work should be performed under the supervision of GSA.)

(i) Services of motion picture operators and other personnel required in the use of auditoriums and conference rooms.

(j) Janitorial, heating, air conditioning, and other services that are provided over and above the services prescribed in §§ 101-20.101, 101-20.102, 101-20.103, and 101-20.104.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

[39 FR 23221, June 27, 1974, as amended at 45 FR 22932, Apr. 4, 1980]

§ 101-20.106 Furniture and furnishings.

§ 101-20.106-1 Responsibility for financing.

Unless otherwise provided by statute, each agency will be responsible for financing its furniture and furnishings requirements at all locations. In this connection, to the maximum extent practicable, requirements shall be met from excess stock, including rehabilitated equipment, even though such items may not conform to present standards.

§ 101-20.106-2 Funding for moving.

Moving of office equipment, furniture and furnishings, and other personal property will be accomplished by GSA when required as a result of moves ordered by GSA in the assignment and reassignment of agencies to space in which GSA has assignment responsibility. Moving services requested by an agency for its convenience in rearranging or consolidating activities will be performed on a reimbursable basis.

§ 101-20.106-3 Moving of furniture and furnishings.

The moving of furniture and furnishings in the reassignment of space under the control of GSA for space assignment purposes shall be restricted to the fullest extent practicable in the interest of efficiency and economy. Furniture and furnishings (except filled file cabinets) shall not be moved when suitable furniture and furnishings can be made available to the agency or segment of an agency reassigned to a new location.

§ 101-20.106-4 Determinations.

Since the determinations with respect to the availability of furniture and furnishings for outfitting an office are dependent to a large degree on the size, location, and type of occupancy of the individual blocks of space which may be involved, the determinations required by section 210(g) of the Federal Property and Administrative Services Act (40 U.S.C. 490(g)) shall be made by appropriate GSA officials, in consultation with duly authorized agency officials, at the local level as circumstances in each case warrant. Determinations shall be based on accomplishing the move:

(a) At the least total cost to the Government;

(b) Without engaging in new or extensive procurement of furniture; and

(c) Without causing undue delay in the work schedule of the moving agency.

§ 101-20.106-5 Furniture control.

The furniture and furnishings previously used by the moving agency or unit and not moved to the new space shall pass to the control of GSA without reimbursement, except those purchased from trust funds. Such furniture will be reassigned to other using agencies or reported excess. When furniture is reassigned by GSA, custody and accountability therefor will be transferred to the using agency. Internal moves made by agencies within assigned areas and not subject to space reassignment action by GSA are exempt from the requirements of this § 101-20.106. However, in the interest of efficiency and economy, agencies should restrict the moving of furniture to the extent feasible.

§ 101-20.107 Conservation of services.

Occupant agencies shall assist in the management of buildings by practicing good housekeeping methods and, wherever possible, by exercising economy in the use of electric current, heat, cooling, building supplies, facilities, and other services. Utilities shall be conserved by turning off lights and equipment when they are not needed. Supplies furnished in the servicing of buildings should be conserved. Equipment and furnishings should be kept neat and orderly. Stowage of books, papers, and other materials on the floor or on top of equipment, desks, or tables should be avoided. Trash and other waste materials should be disposed of in the receptacles provided. Soiling or damaging walls and other painted surfaces is prohibited. It is the responsibility of agencies occupying space in Government-owned or -leased quarters to require their employees to observe such conservation practices.

§ 101-20.108 Door title cards and holders.

Room and occupant identification cards and holders are provided by GSA. The identification system is subject to the following requirements:

(a) Identification signs shall indicate the room or area number and the organizational title of the occupant. Organizational and directional signs are to be avoided at doors which are not intended as entrances for visitors. Organizational information shall be limited to three lines of copy.

(b) In existing buildings, identification cards, normally 8 by 6 inches in size, shall be displayed adjacent to the door in one 8- by 6-inch metal frame. In new buildings and those buildings which undergo major renovations, the information shall be displayed similarly on single-line plastic inserts in a maximum of three 1- by 8-inch single-line metal holders.

(c) The use of identification signs in conjunction with lobby and floor directory boards and information centers should improve occupant identification to meet the needs of the public.

(d) Agencies requiring organizational information on directory boards and the doors to their assigned space should submit Optional Form 12, Request for Door Title Cards and Holders, to the GSA buildings manager. Optional Form 12 also should be used for requesting GSA to furnish other cards, signs, and sign writing for the benefit of the occupant as a reimbursable service.

§ 101-20.109 Accident and fire prevention.

§ 101-20.109-1 Policy.

It is the policy of GSA that:

(a) Standards for space will equal those promulgated under the Occupational Safety and Health Act (OSHA) of 1970 (Pub. L. 91-596); Executive Order 12196; and 29 CFR 1960, Subpart C—Agency Occupational Safety and Health Standards.

(b) The safety and health of occupants and visitors will not be endangered by exposure to unnecessary risks and intolerable conditions.

(c) Safeguards will be provided to allow emergency forces to accomplish their missions without undue danger of entrapment.

(d) Fire-protection and other safety features will be provided to minimize exposure to the community to unnecessary risks or undue danger.

(e) Safeguards that minimize personal harm, property damage, or impairment of GSA or agency operations will be provided according to the level of risk which includes the number of persons involved, the value of the property, and the importance of the Federal activity.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

[45 FR 86493, Dec. 31, 1980]

§ 101-20.109-2 Responsibility of GSA.

GSA will to the maximum extent feasible provide safe space that meets or exceeds the accident and fire prevention policy objectives stated in § 101-20.109-1 to the degree that such is controlled by the basic conditions of the facility, the actions of GSA, or other areas under the direct control of GSA or controlled by GSA space assignment and utilization, acquisition, construction, alteration, building operation, maintenance, or protection procedures or activities.

§ 101-20.109-3 Responsibilities of agencies.

Accidents involving personal injury or property damage to buildings and grounds for which GSA is responsible will be reported immediately to the appropriate GSA buildings manager. Each occupant agency shall ensure that:

(a) Operations and activities and their use in GSA-assigned space conform to the policies of § 101-20.109-1;

(b) All reasonable precautions are taken to avoid accidental injuries, work related illnesses, fires, and property damage; and

(c) A safety, health, and fire protection liaison is appointed with full authority and responsibility to represent the occupant agency management with the GSA buildings manager.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

[45 FR 86494, Dec. 31, 1980]

§ 101-20.109-4 Exits.

All exits, accesses to exits, and accesses to emergency equipment shall be accessible and clear at all times the building is open for business.

§ 101-20.109-5 Housekeeping and orderliness.

Each agency shall maintain its assigned space and conduct its operations in such a manner as to maintain a neat and orderly facility, avoiding increased potential of fire initiation, fire propagation, or fire severity.

§ 101-20.109-6 Occupancy hazards.

Hazardous, explosive, flammable, or combustible materials which exceed that normal to the type of operation indicated in the agency's initial space assignment shall not be brought into the building or shall not be utilized unless authorized by GSA and any additional protective procedures, arrangements, or devices determined by GSA to be needed have been provided.

§ 101-20.109-7 Draperies and curtains.

All draperies, curtains, and similar hanging materials shall be of a noncombustible or flame-retardant fabric.

§ 101-20.109-8 Decorations and displays.

(a) Decorations and displays within assigned space shall conform to the general use of space as appropriate. Where large groups of persons are expected to view displays, adequate provision shall be made for emergency egress.

(b) Except as noted in paragraphs (b) (1) through (3) of this section, all decorations and displays in corridors, lobbies, or other public spaces and in cafeterias, auditoriums, or other places of assembly shall be constructed of noncombustible or flame-retardant materials and kept completely free and clear of any exit or access to an exit.

(1) Limited amounts of combustible or flammable materials shall be permitted for small displays or for elements in larger size displays where, in the judgment of GSA, such materials do not present a hazard to life or property.

(2) Traditional Christmas decorations on office doors may contain limited amounts of combustible or flammable materials.

(3) Natural Christmas trees may be brought into buildings for not more than 2 weeks provided they stand in water, are clear of any exitways or exit lobbies, and are not over 4 feet in height, except as noted in paragraphs (b)(3)(i) and (ii) of this section. Noncombustible artificial Christmas trees are permitted in any size provided they do not interfere with any exit or access to an exit.

(i) In any building lobby where a Christmas tree has traditionally been placed, the buildings manager may permit the use of a natural Christmas tree exceeding the 4-foot limitation provided the tree is cut on or after December 1, the tree stands in water, the position of the tree is clear of exit routes by a distance equal to the height plus 6 feet, there are no other combustibles in the area likely to be ignited by fire in the tree, and the maximum height of the tree does not exceed two-thirds the ceiling height. No tree shall, however, exceed 15 feet in height.

(ii) If the requirements of any ordinance or regulation as applied to natural Christmas trees in non-Federal buildings or private office buildings within the local jurisdiction are more restrictive than this regulation, those requirements shall be considered a portion of this regulation.

(c) Decorations and displays shall not involve lighted candles or other open flame or other high heat producing devices unless such use is determined safe by GSA.

§ 101-20.109-9 Movable partitions.

(a) All newly installed or relocated movable partitions, including partial-height (bank-type), shall be noncombustible.

(b) Installed movable partitions which contain combustible components do not require immediate replacement except where serious hazard to life exists from smoke or fire.

(c) Replacement of movable partitions or combustible components, including translucent plastic panels in bank-type partitions, is the responsibility of the user. A long-range program for minimizing fire hazards shall be instituted in locations where such partitions or components exist, in the following order of priority:

(1) Along egress paths in non-sprinkler protected occupancies.

(2) Along egress paths in sprinkler protected occupancies.

(3) In offices having floor areas of more than 1,000 square feet located on or below the middle story of buildings 10 stories or more in height where the occupancies are not sprinkler protected.

(4) In other offices having floor areas of more than 1,000 square feet which are not sprinkler protected.

(5) In offices having floor areas of 1,000 square feet or less located on or below the middle story of buildings 10 stories or more in height where the occupancies are not sprinkler protected.

(6) In other offices having floor areas of 1,000 square feet or less which are not sprinkler protected.

(7) In offices having floor areas of more than 1,000 square feet which are sprinkler protected.

(8) In offices having floor areas of 1,000 square feet or less which are sprinkler protected.

§ 101-20.109-10 Regulation of smoking.

Regulations for controlling smoking in GSA-controlled buildings and facilities are set forth below. These regulations are intended to be supplemented by additional agency action. It is not the intent of GSA to assume the enforcement role of these regulations, except in public areas or in joint-use space. It is intended that agency guidelines will provide administrative procedures for enforcement within space assigned to them and for resolution of agency/employee complaints. Local laws should also be complied with wherever applicable. "Smoking" is defined, for the purpose of these regulations to include the carrying of lit tobacco products.

(a) Smoking is prohibited in the following areas:

(1) Auditoriums, classrooms, and conference rooms. Buildings managers shall ensure that signs and adequate receptacles for smoking refuse are placed outside the entrances to auditoriums, classrooms, and conference rooms. Exceptions to this policy in agency assigned space may be granted on a case-by-case basis by the agency head.

(2) Elevators. "No smoking" signs shall be posted in elevators, and adequate receptacles shall be placed outside the entrances.

(3) Shuttle vehicles.

(4) Hazardous areas. Each agency shall post and enforce "no smoking" rules in any location under its jurisdiction which involves flammable liquids, flammable gases, or flammable vapors, or in all locations where there is a collection of readily ignitible, combustible materials.

(b) Smoking is not permitted in libraries, except in those nonstack areas that are designated as "smoking" areas. These areas shall be established by the buildings manager in collaboration with the heads of the occupant agencies.

(c) Employees occupying an office may unanimously declare that office a "no smoking" area.

(d) "No smoking" areas shall be established in cafeterias. These areas shall be designated as "no smoking" areas by each building manager, in collaboration with the heads of the occupant agencies. The areas designated shall be based upon an estimate of the number of smoking and nonsmoking patrons served. This should be adjusted on the basis of local experience. The "no smoking" areas shall be identified by appropriate signs.

(e) The establishment of "no smoking" work areas in open space should be thoroughly investigated. Supervisors should plan work space in a manner so that employees who desire a "no smoking" area can be accommodated: *Provided*, That (1) efficiency of work units will not be impaired, (2) additional space will not be required, and (3) costly alterations to the space or procurement of additional office equipment will not be necessary. Agencies are responsible for ensuring that "no smoking" areas are identified by appropriate signs. In establishing and continuing a smoking policy in work areas under their jurisdiction, supervisors should strive to maintain an equitable balance between the rights of nonsmokers and those of smokers.

(f) In medical care facilities such as medical clinics and health units, smoking is restricted to staff lounges, private offices, and specifically designated areas.

(g) Waiting areas shall be divided into areas designated as "smoking" and "no smoking" areas when size allows.

(h) Agencies are responsible for providing adequate noncombustible ash trays or receptacles in locations where smoking is permitted.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

[44 FR 22465, Apr. 16, 1979]

§ 101-20.109-11 Accident prevention and fire protection activities of occupant agencies.

All agencies shall be concurrently responsible with GSA for the development and maintenance of sound fire prevention programs to insure that:

Facilities are kept in the safest condition practical; employees are trained to make optimum use of the building safety features; and other necessary actions are taken to insure the maximum safety and well-being of the occupants in case of fire or similar emergency. Specific areas of participation of each agency shall include:

(a) Periodic inspections, in accordance with Executive Order 12196 and 29 CFR 1960, are required to be conducted by the occupant agency for its operations and activities to include their assigned space within GSA buildings or grounds. All substandard building conditions shall be documented and a copy of the documentation shall be provided to the GSA buildings manager not later than 10 workdays after identification of the substandard condition. These inspections do not relieve GSA of its responsibilities for these areas, nor do inspections by GSA or others relieve occupant agencies of their responsibilities for maintaining full knowledge of conditions.

(b) Cooperation and participation with facility self-protection organizations as described in Subpart 101-20.5 and participation in one or more building fire drills each year that include evacuation or movement of personnel.

(c) Education programs conducted unilaterally and in cooperation with GSA to familiarize employees with the problems and hazards related to fire, including instructions to observe safe practices for fire prevention.

(d) Motivation of their employees to conduct their work in a firesafe manner.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

[39 FR 23221, June 27, 1974, as amended at 45 FR 86494, Dec. 31, 1980]

§ 101-20.109-12 Correction of hazardous conditions.

(a) Conditions within the occupant agency's responsibility to correct, which affect GSA buildings and grounds and could affect any GSA employees or other agency employees in the performance of their responsibilities, shall be corrected within 30 workdays in accordance with 20 CFR Part 1960 or established occupant agency program requirements, whichever is more restrictive. An abatement plan shall be prepared when corrective actions require more than 30 calendar days. This plan shall contain an explanation of why the corrections are delayed, a proposed timetable for the abatement, and a summary of steps being taken in the interim to protect GSA and other agency personnel from injury or illness and GSA buildings and grounds from damage by the unsafe or unhealthy working condition. The occupant agency's liaison shall send a copy of the hazard correction plan to the GSA buildings manager. (Usually this plan will be the same as required by 29 CFR Part 1960). If the abatement will take more than 60 workdays, a copy of the plan shall also be provided by the GSA buildings manager to the appropriate GSA regional Accident and Fire Prevention Branch. Occupant agencies may correct hazardous conditions in accordance with FPMR 101-20.105, which establishes authority for agencies to procure special alteration services of not more than $1,000.

(b) Conditions considered to be within the scope of GSA's responsibility to correct which are identified in occupant agency's assigned space, shall be forwarded to the GSA buildings manager for action. The resolution steps are:

(1) Identification;
(2) Documentation;
(3) Presentation;
(4) Investigation;
(5) Determination; and
(6) Resolution.

(c) To correct a condition considered to be within the scope of GSA's responsibility, six basic steps shall be taken: The occupant agency shall identify, document, and present the problem to the GSA buildings manager, after which GSA will investigate, determine, and resolve the problem. Identification of these conditions may be by an occupant agency employee or by an occupant agency safety and health and fire protection specialist.

When an imminently dangerous situation exists, as defined by 29 CFR 1960.28, a telephone call from the occupant agency's liaison to the GSA buildings manager shall constitute the occupant agency's identification, documentation, and presentation of the problem to GSA. Otherwise, a report shall document the hazardous condition and cite references to specific OSHA standards violated. Documentation should include inspection reports, photographs, sketches or drawings for a safety problem, and an industrial hygiene survey report for health problems. The OSHA Form No. 7 (complaint) may be used as part of the documentation. The occupant agency's liaison shall determine that there are reasonable grounds to believe that an unsafe or unhealthful condition exists before presenting the situation to the GSA buildings manager.

(d) GSA action:

(1) Upon a documented agency request, GSA will investigate reports of unsafe or unhealthful conditions. This investigation, when requiring an onsite inspection, shall be completed within 24 hours for imminent danger situations, 3 working days for potentially serious conditions, and 20 working days for other safety and health conditions.

(2) The GSA buildings manager will determine a plan of action to resolve the problems and inform the agency within 5 working days after the investigation.

(3) Whenever possible, GSA shall resolve the condition within 20 working days after determining the plan of action and shall inform the agency when resolution has been completed.

(4) When resolution will take longer than 30 working days, the GSA buildings manager shall prepare and submit to the occupant agency liaison an abatement plan.

(5) GSA shall give priority in the allocation of resources for prompt abatement of conditions.

(6) The abatement plan shall set forth a timetable for abatement and a summary of interim steps to protect employees. The plan shall include the: Location of the hazard, hazard assessment (probability of occurrence and potential severity), discussion of the hazard, corrective action to be taken, specific reference to OSHA standard(s) violated, justification for deferring corrective action, proposed timetable, interim corrrective action, and the appropriate management signature.

(d) Actions by the buildings manager or other regional management personnel that do not resolve the problem to the satisfaction of the occupant agency's management may be formally presented to the appropriate GSA Regional Administrator by the occupant agency's regional, district, or equivalent management.

(e) Unsatisfactory resolutions by GSA regional management may be formally presented to the Administrator of GSA, Washington, DC 20405, by the agency head or an authorized designee.

(f) Hazardous conditions observed in other than the occupant agency's assigned space should be brought to the attention of the responsible agency's occupant liaison for required action.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

[45 FR 86494, Dec. 31, 1980]

§ 101-20.110 Employee-owned electrical equipment.

An agency desiring to have an employee-owned electrical appliance installed in a building under the jurisdiction of GSA shall submit a request in writing to the GSA buildings manager in charge of the building in which the installation is to be made. The request shall describe the appliance and its intended use and shall have been approved by an authorized representative of the agency. The buildings manager will inform the requesting agency of the approval or disapproval of the request. All installations shall be made by or under his direction and in conformance with the safety and installation requirements. Whether payment will be required therefor shall be determined from the applicable provisions of Subpart 101-20.1. The buildings manager will provide for the periodic inspection of all installations of electrical appliances to guard against possible fire hazards and to ensure the observance of good housekeeping practices. When the use or installation of the appliance does not conform to the appropriate safety, installation, and sanitary requirements, the agency will be requested to order its removal.

§ 101-20.111 Vehicle parking facilities.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

[42 FR 56122, Oct. 21, 1977]

§ 101-20.111-1 General.

GSA is responsible for determining what space in and around properties under its custody and control may be for vehicle parking purposes.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

[42 FR 56122, Oct. 21, 1977]

§ 101-20.111-2 Policy.[1]

Vehicle parking facilities to accommodate the needs of Federal agencies will be established in and around properties under the custody and control of GSA. Such facilities will be consistent with the character of other properties in the neighborhood and local planning requirements, will not adversely affect the use or appearance of the property and will not constitute a traffic hazard.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

[42 FR 56122, Oct. 21, 1977]

§ 101-20.111-2a Priority of assignment of parking spaces. [1]

(a) Vehicle parking spaces shall first be reserved for official needs in the following order of priority:

(1) Mailcarrier maneuvering area and official Postal Service vehicle parking (including contact mail-hauling vehicles and private vehicles or rural carriers) at buildings containing Postal Service mailing operations.

(2) Government-owned vehicles specially outfitted and used for criminal apprehension law enforcement activities and firefighting and other emergency vehicles.

(3) Privately owned vehicles of Federal judges and Members of Congress. Priority is limited to these individuals for security purposes and does not include members of their staffs.

(4) Privately owned vehicles of agency heads. Priority is limited to these individuals and does not include members of their staffs. An agency head is defined as:

(i) The senior official with authority and responsibility for administering a nationwide program at the agency or bureau level; or

(ii) The senior official in a regional office with authority and responsibility for administering a program in a geographic area of more than one State.

(5) Government-owned vehicles other than those listed in paragraphs (a) (1) and (2) of this section. These include motor pool dispatch vehicles and vehicles assigned to agencies for general use.

(i) The total number of parking spaces provided for all Government-owned vehicles shall be an amount less than the total number of such vehicles. The type of vehicles involved and the character of the motor pool operation shall determine the ratio of parking spaces to vehicles.

(ii) If feasible, areas assigned for Government-owned vehicles may be used during other than early morning or late afternoon hours for visitor and service vehicles or other vehicles as appropriate.

(6) Vehicles of patrons and visitors and service vehicles not accommodated under paragraph (a)(5)(ii) of this section.

(7) Privately owned vehicles of employees of occupant agencies regularly used for Government business. The term "privately owned vehicles regularly used for Government business" means vehicles used 12 or more workdays per month for Government business for which the employee receives reimbursement for mileage and parking fees under Government travel regulations. Monthly certification, such as travel vouchers, may be required to establish this priority.

(b) When requested by agencies, the parking spaces not required for "official parking" may be used for employee parking. In the assignment of employee parking spaces, the following sequence of priorities shall be observed:

(1) Severely handicapped Government employees for whom assigned parking spaces are necessary. These are employees so severely physically handicapped as to prohibit or make unreasonably difficult the use of public transportation. Justification for

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[1] See temporary regulation D-65 in the appendix to Subchapter D for temporary changes to §§ 101-20.111-2 and 101-20.111-2a.

this priority may require certification by an agency medical unit including the Veterans' Administration, by the Public Health Service, or by a private physician.

(2) Privately owned vehicles of employees of occupant agencies not other wise accommodated. Assignments shall be made in accordance with applicable carpooling regulations. (See § 101-20.117.)

(i) *Parking spaces allocated to agencies.* Under most circumstances (see paragraph (b)(2)(ii) of this section for an exception), available employee parking will be allocated to each agency in proportion to its share of the total building population. The agency, in turn, shall assign spaces to employees, using the number of persons in a carpool as the primary priority in accordance with applicable carpooling regulations.

(ii) *Assignment on a zonal basis.* In the Metropolitan Washington, D.C. area and in other major metropolitan areas, to achieve more efficient utilization of space and equality in the availability of parking for all Federal employees, the Regional Administrator, GSA, may have all parking allocations based on a zonal concept rather than on individual sites. In locations where this method is followed, all agencies located in a zone would compete for the available parking in accordance with instructions issued by the Regional Administrator. In establishing this procedure, the Regional Administor will consult with all affected agencies.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

[42 FR 56122, Oct. 21, 1977]

§ 101-20.111-2b Increased utilization of parking facilities.

GSA will take the following actions, where appropriate, to intensify the utilization of parking spaces:

(a) Periodically or as required, GSA, in consultation with the agencies, will make appropriate surveys, conduct studies, and review parking space allocations to determine the rate of utilization of vehicles and space in vehicle parking facilities and will increase, where feasible, the number of vehicles authorized to use the facilities. GSA will reallocate space, as necessary, in accordance with the priorities set forth in § 101-20.111-2a.

(b) GSA will coordinate agency vehicle parking requirements within the urban centers listed in § 101-18.102 so that agencies are made aware of the availability of parking spaces within each urban center.

(c) In most instances, avoiding the assignment of individual reserved parking spaces will result in increased efficiency in the use of the available parking spaces. Where necessary, a limited number of spaces may be reserved for certain individuals such as judges, Members of Congress, and handicapped persons. In this manner, the number of permits can be overallocated to have greater availability of parking for employees. In instances in which allocation of parking spaces is made on the basis of individual spaces rather than block spaces, poor utilization usually results. Therefore, adequate justification must be documented showing economic or other significant reasons for reservation of individual spaces rather than allocation on a block basis.

(d) Where feasible, GSA or other agencies, as appropriate, will employ commercial practices of parking management concerns by stackparking vehicles bumper-to-bumper with a minimum of access aisles. This will result in an increase in the number of vehicles which can be accommodated.

(e) Paid attendants may be used in some instances under arrangements will a parking management contractor (concessionaire). This technique may be used in conjunction with either stackparking or block parking or in locations where it is deemed advantageous to use a management contractor to operate the parking facility. In instances in which a parking contractor is used, the fees for management of the facility shall be paid by the employees using the facility.

(f) Motor pool vehicles and vehicles on indefinite assignment to agencies shall be subject to the same parking procedures (such as bumper-to-bumper parking) as employee vehicles. Emergency and law enforcement vehicles (see § 101-20.111-1a(a)(2)) are exempt from such procedures.

(g) The provision of facilities for storing vehicles which are awaiting disposal or assignment or which have been impounded by law enforement agencies shall be limited to outlying locations where spaces are not at a premium.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

[42 FR 56122, Oct. 21, 1977]

§ 101-20.111-2c Billing for assigned vehicle parking spaces.

(a) *Official parking.* Each agency will be billed the appropriate standard level user change (SLUC) for all offical parking spaces assigned in accordance with § 101-20.111-2a. Visitor, patron, and service vehicle parking spaces assigned specifically to an agency will be billed at the appropriate standard level user charge. Spaces assigned or reserved for general use by visitor, patron, and service vehicles will be billed on a prorated basis to using agencies.

(b) *Employee parking.* Employee vehicle parking spaces, when requested by an agency, will be assigned in accordance with § 101-20.111-2a. The agency will be billed the appropriate standard level user charge. (NOTE: SLUC billings will be made to agencies and not to individual employees.) In situations in which the number of parking spaces exceeds the number requested by using agencies, such as may occur at Federal centers and depots, the excess spaces will be metered, made available to a concessionaire or to an employee group by outlease or permit, or otherwise handled as appropriate.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

[42 FR 56122, Oct. 21, 1977]

§ 101-20.111-3 Parking space allotments.

Allotment of areas will be made to agencies which shall administer those areas for parking purposes. Guidelines for policing public buildings and grounds, including parking areas, are set forth in Subpart 101-20.3. If necessary, and at occupant agency request, provisions will be made by GSA to regulate the use of parking areas by policing with GSA or other Government personnel or by arrangements with local law enforcement authorities. Unusual protection requirements shall be subject to reimbursement.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

[42 FR 56123, Oct. 21, 1977]

§ 101-20.112 Concessions.

§ 101-20.112-1 Applicability.

This section applies to concessions in buildings operated by GSA, except vending stands operated by blind persons under the Randolph-Sheppard Act (20 U.S.C. 107 et seq.).

§ 101-20.112-2 General.

(a) Concessions require the use of space and the provision of various building facilities and services. The type and location of each concession may seriously affect GSA costs for its installation, as well as later costs for building maintenance and operation.

(b) It is essential, therefore, that the type and location of each concession be satisfactory to GSA and that each concession contract definitely establish the responsibilities of the concessionaire with respect to costs and other matters which affect building maintenance and operation. It also is imperative that consideration be given to pertinent legislation and the terms of existing contracts between GSA and concessionaires.

(c) GSA will arrange for the establishment of all concessions, including public telephones, in buildings under its custody and control. It will provide suitable space for approved concessions, arrange for necessary alterations and installations, enter into contracts or issue permits, and select concessionaires.

§ 101-20.112-3 Transferred buildings.

Concessions which were contracted for or otherwise arranged for by a Federal agency having custody and control of a building before its transfer to GSA, except concessions operated by the blind, may be continued under the supervision of that agency upon written approval of GSA subject to the following:

(a) Proposed alterations and improvements, purchases of equipment for replacement, and other matters affecting the building structure or its maintenance and operation, shall be approved by GSA.

(b) GSA will arrange for periodic inspections to insure compliance with safety, health, and sanitary codes.

§ 101-20.112-4 Supervision.

(a) Responsibility for supervision and administration of all concessions, except as provided in § 101-20.112-3, is vested in GSA.

(b) In the case of contracts and permits to which GSA is a party, officials of occupant agencies shall not, unless authorized by GSA, instruct concessionaires concerning types of service, articles to be sold, prices, or any other phase of operations. They shall communicate their wishes and requirements in such matters and shall refer suggestions and criticisms of Federal employees to the GSA buildings manager or to the appropriate regional official of GSA who will take such action in consequence thereof as may be deemed appropriate.

§ 101-20.112-5 Determination of need.

GSA will determine the need for concessions based on the following requirements:

(a) There must be adequate justification for each concession, and sufficient and satisfactory space must be available for the concession.

(b) Subject to the other requirements of this section, concession services shall be such as are satisfactory to the building occupants and not inconsistent with their policies and programs. Except for blind stands, GSA shall not place concessionaires in space in federally owned or leased buildings without consulting the occupant agency(ies) or without the agency(ies) requesting the services to be provided by the concessionaires.

(c) Sufficient funds shall be legally available, either to GSA or occupant agencies, to defray the costs for which the Government will be responsible. Prior to placing concessionaires in a building, agreement shall be reached with the occupant agency(ies) as to whether funds are budgeted and appropriated to the agency(ies) for payment of any expenses for which the agency may be obligated and that any such concession services are necessary for the health or efficiency of the agency's employees while on duty.

(d) It shall be possible to establish and operate each concession in conformance with safety, health, and sanitary codes.

(e) There shall be no contravention of the provisions of law, or the terms of any lease (except with the prior consent of the lessor).

(f) The proposed concession shall not be detrimental or objectionable to other occupant agencies in the building.

(g) Commodities and services sold shall be limited to those which Federal employees may need to obtain while on duty, which are essential to their health, comfort, or efficiency, and which cannot be obtained conveniently from nearby existing facilities; *Provided:* That this requirement shall not prevent the approval of concessions required to serve a functional need of an occupant agency, as when the Government provides meals to inductees into the armed forces; or to inductees into the armed forces; as permitted by law; e.g., vending stands operated under 20 U.S.C. 107 by the blind.

(h) Except when unusual conditions prevail, each concession shall be such as will serve all Federal employees in the building. This does not preclude the establishment of duplicate facilities when justified by the size of the building.

§ 101-20.112-6 Scheduling patronage.

When requested by GSA, each occupant agency should endeavor to schedule the times at which its employees may use concession services, so that patronage will be distributed evenly over a reasonable serving period.

§ 101-20.112-7 Safety, cleanliness, and sanitation.

(a) In the interest of safety, cleanliness, and sanitation, patrons shall be encouraged to consume foods and beverages at the point of purchase. When foods or beverages are removed from the concession area for consumption, agency heads shall require that:

(1) Beverages and liquid foods be in covered containers.

(2) Empty cans be placed in receptacles provided by the concessionaires, or be placed alongside office waste receptacles.

(3) Liquids not be poured into waste receptacles.

(4) Spillage of liquids in corridors, lobbies, or work areas be avoided.

(5) Nondisposable dishes, silverware, and other utensils not be removed from concession areas without the permission of the concessionaire, and those removed with his permission be returned promptly after each use by the person granted permission.

(b) Violation of these requirements may make it necessary to withdraw the privilege of carrying foods and beverages from concession areas.

§ 101-20.112-8 Music.

(a) As in the case of other concessions, the broadcasting of music in work or concession areas shall be subject to the prior approval of GSA.

(b) Approval will be subject to the applicable provisions of § 101-20.112-4 and to the following requirements:

(1) The interested occupant agency shall accept responsibility for the satisfactory selection of music and other aspects of the service.

(2) The music shall be provided without expense to GSA, and in concession areas without expense to the concessionaire, except with his prior concurrence.

(3) Installations incident to the provision of the music shall be satisfactory to the buildings manager.

(4) The provision of the music shall not unduly interfere with the satisfactory operation of a concession.

(5) The installation shall not be used for commercial advertising.

§ 101-20.113 Staggering hours of duty in Metropolitan Washington.

(a) *Applicability.* (1) The provisions of this section apply to all proposals to establish or change the hours of duty in Metropolitan Washington, including proposals related to the establishment or relocation of a Government office.

(2) For the purpose of this § 101-20.113, Metropolitan Washington includes the District of Columbia; Montgomery and Prince Georges Counties in Maryland; Arlington, Fairfax, Loudoun, and Prince William Counties in Virginia; and all municipalities now or hereafter existing in Maryland or Virginia within the geographic area bounded by the outer boundaries of the combined area of said counties.

(b) *Responsibility.* Except as otherwise provided, any agency considering a schedule of hours of duty differing from, or in addition to, its schedule of hours of duty heretofore approved, shall obtain the approval of the GSA Regional Administrator, Region 3, before the proposed schedule is placed in effect. The Regional Administrator, in approving proposals to change hours of duty, will be guided by the overall policy of maintaining a system of staggered hours of duty in Metropolitan Washington.

(c) *Requirements.* (1) The requesting agency shall submit a written request to the General Services Administration (3A), Washington, D.C. 20407, which will include the proposed hours of duty, the number of employees affected, and a detailed justification for such action.

(2) The requesting agency must also coordinate with the related employees' union(s) and/or the affected employees in determining the percentage of employees in favor of any proposed change of hours and shall submit this figure with the request.

(3) In addition, the GSA Regional Administrator, Region 3, will coordinate the proposal with appropriate agencies of the District of Columbia, Virginia, and Maryland and with the public transportation systems, including the Washington Metropolitan Area Transit Authority, to ensure that the proposed change, if adopted, would not cause additional congestion, impossible transportation demands, or otherwise disrupt normal traffic flow patterns to or from the particular area in which the agency is located.

(d) *Exceptions.* A proposed change in the schedule of hours of duty may be placed in effect by a Federal agency without approval of the GSA Regional Administrator, Region 3, in the following instances:

(1) When neither the current nor the proposed hours of duty begin or

end within either of the periods 7-9:30 a.m. or 3:30-6 p.m.; or

(2) When the proposed change in the schedule of hours of duty affects fewer than 50 employees unless the agency plans to apply the change to additional employees, bringing the total to 50 or more within a 3-month period.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

[39 FR 23221, June 27, 1974, as amended at 41 FR 34629, Aug. 16, 1976]

§ 101-20.114 Newly constructed buildings.

The following services and equipment are provided by GSA without cost to prospective occupants of new Government-owned buildings subject to GSA custody and control, including buildings being acquired by purchase-contract arrangements under the Public Buildings Purchase Contract Act of 1954 (40 U.S.C. 356) and sec. 5 of the Public Buildings Amendments of 1972 (40 U.S.C. 602a).

(a) The usual built-in and fixed building equipment, including courtroom equipment where applicable, and such miscellaneous items as directory and bulletin boards in public space, water coolers, wall fans, and venetian blinds.

(b) Moving and installation of existing special equipment, such as laboratory, clinical, and protection equipment.

(c) Moving of furniture, furnishings, and office equipment in use to temporary space or new buildings.

(d) Space for interim occupancy for agencies temporarily displaced to make way for construction.

(e) Special purpose requirements of prospective occupants will be financed in accordance with § 101-21.502(b).

§ 101-20.115 Property pass.

(a) Optional Form 7, Property Pass, shall be used by all agencies requiring a pass for the removal of occupant agency controlled Government property from Federal buildings. The form may be used for the removal of personally owned property when security regulations are in force in a given building.

(b) The form is to be filled in and signed by the person authorizing the removal of the property. The person authorized to remove the property is to surrender the pass to the guard when leaving the building. The disposition of the pass after collection by the guard is a matter of administrative determination to be made by the using agency.

§ 101-20.116 Conservation of energy by executive agencies.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c) and Federal Management Circular 74-1)

[39 FR 39266, Nov. 6, 1974]

§ 101-20.116-1 Agency action.

Executive agencies shall be responsible for assigning a top management official as the agency Energy Conservation Coordinator to oversee and supervise the Government-wide effort as it pertains to the facilities under the agency's control. It is further the responsibility of executive agencies occupying space in Government-owned or leased quarters to require their employees to observe the energy conservation practices cited herein. Also, it should be noted that implementation of the provisions of this regulation may require consultation or negotiations, as appropriate, with recognized labor organizations.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c) and Federal Management Circular 74-1)

[39 FR 39266, Nov. 6, 1974]

§ 101-20.116-2 Lighting conservation policies and procedures.

(a) Nonuniform lighting standards shall be applied to existing lighting systems by removing excess lamps and fixtures.

(1) During working hours, overhead lighting shall be reduced to 50 foot-candles at work stations, 30 foot-candles in work areas, and 10 (but not less than 1) foot-candles in nonworking areas. Reductions in overhead lighting shall be accomplished with minimum practicable deviation from the specified levels. Illumination levels are to be measured at the place or places where the visual requirements are present. Furthermore, lighting measurements shall be made so as not to allow natural light to influence the foot-candle reading. Work station lighting measurements shall be taken

at the desk surface, typewriter surface, working surface, etc. Work area lighting measurements shall be read on the walking surface.

(2) Except where special problems may exist, an illumination level of 1 foot-candle achieved on the walking surface at the center of the corridor midway between two lighting fixtures is satisfactory and need not be achieved at the corners of corridors, against corridor walls, etc.

(3) In stairwells where lamps or bulbs are provided in tandem to guard against darkening a stairway upon failure of one lamp or bulb, the tandem system shall be continued. In other words, the target lighting levels shall not be achieved by removing one of the two lamps or bulbs provided in the tandem system.

(4) Where elevator hoistway lights, and emergency lights, such as those to be illuminated by activation of an emergency generator are provided and required, the necessary lamps or bulbs shall be maintained. At least 5 foot-candles of illumination shall be provided at the landing sills of passenger and freight elevators when the elevator is in service.

(5) Off-hour and exterior lighting except that essential for safety and security purposes; e.g., exit signs, shall be eliminated.

(6) These standards shall be maintained in all space except where "heat of light" technology is utilized. Where "heat of light" technology is used, the energy savings to be achieved by decreasing the lighting and cooling energy shall be compared to the increased use of heating energy before a determination regarding delamping is made.

(b) To the extent that projected energy savings will offset higher acquisition and maintenance costs, preference shall be given to the installation of more efficient lighting systems when constructing or remodeling space.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c) and Federal Management Circular 74-1)

[39 FR 39266, Nov. 6, 1974]

§ 101-20.116-3 Cooling and heating energy conservation policies and procedures.

(a) During the seasonably hot months, air cooling systems shall maintain space temperature at no lower than 78° to 80° F during working hours. Necessary adjustments shall be made to cooling system controls so that the temperature in the space shall be maintained at 78° to 80° F with no reheat, except in multizone systems where reheat is an essential element for zone control. Where this is the case, the cooling temperature shall be maintained as high as feasible to minimize the need for reheat. Furthermore, lower temperatures are permissible when obtained without cooling energy, such as with an economizer cycle. The use of heating energy to achieve the temperatures specified for cooling is prohibited.

(b) During the seasonably cold months, heating temperature control devices shall be set to maintain temperatures of 65° to 68° F during working hours and shall be set to maintain temperatures of not more than 55° F during nonworking hours. Temperatures in warehouse and similar space shall be adjusted lower than the 65° to 68° F range depending on the type of occupancy and the activity in the space. Higher temperatures than those specified for heating are permissible when obtained with normal building operation heat gains, such as solar energy, etc. The use of cooling energy to achieve the temperatures specified for heating is prohibited.

(1) Interior space in office buildings tends to have a heat build-up generated by lights, people, and equipment and, therefore, does not usually require an added heat source during the heating season. Systems serving this type of space usually utilize recirculated air mixed with some outside air for ventilation purposes. The amount of outside air shall not be increased nor refrigeration introduced for the sole purpose of lowering the temperature which might otherwise exceed 68° F.

(2) Window draperies and blinds shall be used to cut down heat losses by setting them to the closed position during nighttime and on cold, cloudy

days, and setting them to the open position during periods of sunshine.

(c) Humidity control shall not be provided for general office space during the cooling season. Requirements for humidity controls in special type space or certain geographic locations will be handled on an individual basis by the official responsible for operation and maintenance of the facility with the concurrence of the agency Energy Conservation Coordinator. Humidity controls may be provided during the heating season for general office space.

(d) The operation of threshold heaters, portable space heaters, and portable electric fans in Government-owned or -leased space is prohibited.

(e) Outside air intake during heating and cooling seasons shall be reduced to the greatest extent feasible. Under most conditions, a 10 percent outside air intake will be adequate for general office space. Under certain outside air temperature and humidity conditions, the use of up to 100 percent outside air will be the most economical method of operation. Special purpose space, such as laboratories, shall have the outside air intake reduced to the maximum extent possible consistent with the requirements of the mission. In laboratories and other facilities dealing with toxic materials, the level of air intake and other system features shall be maintained as necessary to protect persons from harmful dust, fumes, vapors, etc.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c) and Federal Management Circular 74-1)

[39 FR 39267, Nov. 6, 1974, as amended at 41 FR 6772, Feb. 13, 1976]

§ 101-20.116-4 Exceptions.

Exceptions to the policies prescribed in the foregoing §§ 101-20.116-2 and 101-20.116-3 may be necessary for the protection and operation of certain specialized equipment; e.g., computers, for maintaining the health and efficiency of employees, and for certain installations of high specialization; e.g., greenhouses, hospitals, guard stations, and laboratories. Such exceptions may be granted only after consultation with appropriate technical personnel of the unit requesting the exception, and the presentation of necessary supporting evidence. Exceptions will be granted by the office responsible for the operation and maintenance of the facility, and must be concurred in by the official's energy conservation coordinator.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c) and Federal Management Circular 74-1)

[39 FR 39267, Nov. 6, 1974]

§ 101-20.116-5 Conservation of energy in leased space.

Contracting officers shall ensure that all new lease contracts include the conservation policies prescribed in § 101-20.116-2 and § 101-20.116-3. Existing lease contracts shall include the conservation policies prescribed in § 101-20.116-2 and § 101-20.116-3 to the extent feasible within the existing contract provisions or by amendment thereto.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c) and Federal Management Circular 74-1)

[39 FR 39267, Nov. 6, 1974]

§ 101-20.116-6 Reporting requirements.

(a) Each agency shall report the energy consumption in buildings and facilities under its control within 45 calendar days after the end of each quarter, as specified in the Federal Energy Administration Energy Conservation Performance Report, Form FEA U 502-0-0. Forms shall be mailed to the Federal Energy Administration, Mail Code 2898, Washington, DC 20461. In addition, a copy of the report shall be sent simultaneously to the Administrator of General Services, Washington, DC 20405.

(b) This report has been cleared in accordance with FPMR 101-11.11 and assigned interagency report control number 1492-FLA-OU.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c) and Federal Management Circular 74-1)

[41 FR 6772, Feb. 13, 1976]

§ 101-20.117 Carpool parking.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c) and Federal Management Circular 74-1)

[41 FR 7944, Feb. 23, 1976]

§ 101-20.117-1 Definitions. [1]

The following definitions shall apply to this section:

(a) "Agency parking" means vehicle parking spaces under the jurisdiction and/or control of a Federal agency which are used for parking Government vehicles, other official vehicles, visitor vehicles, and employee vehicles.

(b) "Carpool" means a group of two or more people using a motor vehicle for transportation to and from work.

(c) "Employee parking" means the parking space assigned for the use of employee-owned vehicles other than those classified as "official parking."

(d) "Federal agency" means any executive department or independent establishment in the executive branch of Government, including any wholly owned Government corporation.

(e) "Handicapped employees" means Government employees so severely physically handicapped as to prohibit or make unreasonably difficult the use of public transportation. Justification for this priority may require certification by an agency medical unit or the Public Health Service.

(f) "Official parking" means parking spaces reserved for Government-owned, Government-leased, or privately owned vehicles regularly used for Government business. The phrase "privately owned vehicles regularly used for Government business" means vehicles used 12 or more workdays per month for Government business for which the employee receives reimbursement for mileage and parking fees under Government travel regulations. Monthly certification by agency heads may be required to establish this priority.

(g) "Parking space" means the area allocated in a parking facility for the temporary storage of one passenger-carrying motor vehicle.

(h) "Regular member" means a person who travels daily (leave excepted) in a carpool for a minimum distance of 1 mile each way. In addition, an agency may define a regular member as one whose worksite is located within a specific but reasonable distance from the parking facility.

(i) "Visitor parking" means parking spaces reserved for the exclusive use of visitors to Federal facilities.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c) and Federal Management Circular 74-1)

[41 FR 7944, Feb. 23, 1976]

§ 101-20.117-2 Policies. [1]

Agencies shall encourage the conservation of energy by taking positive action to increase carpooling. The following policies shall be reflected in agency plans:

(a) *Parking.* In assigning all parking spaces assigned to or controlled by each agency, the following policies shall be observed:

(1) Agencies shall give first priority to official and visitor parking requirements.

(2) Severely handicapped Government employees for whom assigned parking spaces are necessary shall be accommodated. Non-handicapped drivers who provide transportation for severely handicapped employees will also be assigned parking spaces.

(3) A goal of not more than 10 percent of the total spaces available for employee parking on an agency-wide basis (excluding spaces assigned to severely handicapped) shall be assigned to executive personnel and persons who are assigned unusual hours.

(4) All other spaces available for employee parking shall be made available to carpools to the extent practical.

(5) Those parking spaces reserved for carpools shall be assigned primarily on the basis of the number of members in a carpool.

(6) For the purpose of allocation of parking spaces for carpools, full credit shall be given to any regular member regardless of where he is employed except that at least one member of the carpool must be a full-time employee of the agency.

(b) *Two-wheeled vehicles.* Subject to the availability of satisfactory and secure space and facilities, agencies shall reserve areas for the parking of bicycle and other two-wheeled vehicles. Bicycles shall be given special consideration including storage type space in buildings and improved bicycle locking devices where practical and appropriate funds are available. Bicycles shall not be transported on elevators or via stairways, or parked in offices.

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[1] See Temporary Regulation D-65 in the appendix to Subchapter D for temporary changes to §101-20.117-1.

(c) *Regular hours.* Agency managers and supervisors shall make every effort to maintain regular arrival and departure times for all employees. Supervisors are reminded of their prerogative, within overall agency policy, to adjust the scheduled duty hours of individual employees to facilitate carpooling and the use of mass transit.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 485(c), 486(c)) and Federal Management Circular 74-1)

[41 FR 7944, Feb. 23, 1976, as amended at 43 FR 8139, Feb. 28, 1978]

§ 101-20.117-3 Leased or contractor-operated parking spaces.

When parking spaces are controlled by specific lease or other contractual agreements, appropriate agency contracting officers shall endeavor to amend the contracts to the extent necessary to accomplish the policies prescribed by this regulation, provided the amendments are not otherwise adverse to the best interests of the Government. Where it is not economically prudent to amend existing contracts, the contracts shall be modified before renewal to comply with the agencies prescribed parking procedures.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)) and Federal Management Circular 74-1)

[41 FR 7944, Feb. 23, 1976]

§ 101-20.117-4 Guidelines for implementation.

Agencies shall develop and implement employee carpooling programs through extensive promotional campaigns using available internal communications. Agencies shall be responsible for assigning employee parking spaces assigned to or under the control of that agency. Implementation of the provisions of this regulation may require consultation, as appropriate, with recognized labor organizations. Each agency shall maintain written plans and procedures for the assignment of parking spaces including as a minimum the following items:

(a) Specific methods and procedures to be followed by the agency in the assignment of employee parking spaces;

(b) Assistance available to employees in establishing or joining carpools and the procedures to be followed in filing applications for parking spaces;

(c) Provision for at least an annual review and reassignment of all parking spaces;

(d) Procedures for interim reassignment and replacement caused by membership turnover;

(e) A definition of employee responsibility in the use of the parking spaces and in promptly reporting any changes in the number in or membership of carpools;

(f) A statement of penalties for misrepresentation of carpool applications (A mandatory penalty of at least 6 months' suspension of the privilege of parking on a Federal facility shall be imposed for misrepresentation of carpooling membership, application qualifications, or for violation of other agency carpooling practices and requirements. The agency may also impose other penalties where appropriate);

(g) Provision for enforcing the parking rules and regulations;

(h) A system for maintaining carpool records and files; and

(i) Provision for internal monitoring and auditing to determine compliance with these regulations.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)) and Federal Management Circular 74-1)

[41 FR 7944, Feb. 23, 1976]

Subpart 101-20.2—Vending Stands Operated by Blind Persons

§ 101-20.200 Scope of subpart.

(a) This subpart contains the regulations ensuring the granting of preference to blind persons licensed under the provisions of the Randolph-Sheppard Act (40 Stat. 1559, as amended by 68 Stat. 663, 20 U.S.C. 107) for the operation of vending stands and machines. They are issued after consultation with and approval by the Secretary of the Department of Health, Education, and Welfare (36 FR 13747).

(b) The regulations in this subpart shall apply to Federal property owned, leased, or occupied by the United States over which General Services Administration has control of the maintenance, operation, and protection, except space used by the U.S. Postal Service as workrooms, swingrooms, and locker rooms. Vending machines and stands in these rooms are governed by regulations issued by the U.S. Postal Service.

§ 101-20.201 Policy.

Blind persons licensed by State licensing agencies designated by the Secretary of Health, Education, and Welfare, under the provisions of the Randolph-Sheppard Act shall be given preference in the operation of vending stands and/or machines on any General Services Administration controlled property in which vending stands and/or machines may be properly and satisfactorily operated by such persons without unduly inconveniencing the General Services Administration or adversely affecting the interests of the United States.

§ 101-20.202 Cooperation in establishing facilities.

(a) The Commissioner, Public Buildings Service, General Services Administration, and his representatives shall cooperate with the Department of Health, Education, and Welfare and designated State licensing agencies in making surveys looking toward the establishment and operation of vending stands by blind persons. In this connection, it is the policy of General Services Administration to approve vending stands in all buildings having a population sufficient to support such a stand except where the physical limitations of the building or economic factors make the establishment of a stand infeasible.

(b) Consideration shall be given to the inclusion of vending facilities during the planning, design, and construction of new buildings and the alteration of existing buildings including buildings or portions thereof to be leased by or under lease to the Government.

(c) Where it is determined that vending facilities to be operated by the blind may be installed, the State licensing agency shall be so notified and the necessary permit agreed upon and issued.

§ 101-20.203 Leased property.

If stands and/or vending machines are to be installed on leased property, the necessary approval of the lessor shall be obtained prior to the issuance of a permit.

§ 101-20.204 Application for permits.

Applications shall be made in writing on the appropriate form, submitted to the buildings manager, and approved by the Director, Buildings Management Division, of the appropriate General Services Administration regional office.

§ 101-20.205 Terms of permit.

Every permit shall describe the location of the vending stand and vending machines located other than on the stand premises and shall be subject to the following provisions:

(a) The permit shall be issued in the name of the applicant State licensing agency. The State licensing agency shall:

(1) Prescribe such procedures as are necessary to ensure that in the selection of operators and employees for vending stands there shall be no discrimination because of race, creed, color, or national origin.

(2) Take the necessary action (i) to ensure that operators of vending stands do not discriminate by segregation or otherwise against any person or persons because of race, creed, color, or national origin in furnishing or by refusing to furnish to such person or persons the use of any vending stand facility, including any and all services, privileges, accommodations, and activities provided thereby and (ii) to ensure compliance by such operators with Title VI of the Civil Rights Act of 1964 and the regulations of the General Services Administration issued pursuant thereto which are set forth in Subpart 101-6.2 and specifically made applicable to the provision of free space and utilities by GSA

for vending stands operated by blind persons under section 1 of the Randolph-Sheppard Act (20 U.S.C. 107) by § 101-6.217(k).

(b) The permit shall be for an indefinite term.

(c) No charge shall be made to the State licensing agency for the use of Government-furnished space or for maintenance and repair of the building structure in and adjacent to the vending stand areas, including any necessary, initial, and periodical painting and decorating; for utilities required to operate vending stands and vending machines; or, for repairing and replacing floor coverings, and cleaning windows; and, for providing other related building services in accordance with the normal level of building service programs applicable to the Federal property on which the stand is located.

(d) Cleaning, including floor scrubbing and waxing, necessary for sanitation and to maintain vending areas at stands and machines in an orderly condition at all times and other building services not provided under the normal level of building service programs applicable to the property, the installation, maintenance, repair, replacement, servicing, and removal of vending stand equipment; and, additional wiring, electrical, or plumbing connections which may not be provided for in the planning, design, and construction of new buildings and the alteration of existing buildings, shall be without cost to the General Services Administration. (See § 101-20.202(b).)

(e) Items sold at vending stands operated by the blind may consist of newspapers, periodicals, publications, prepackaged confections, tobacco products, articles dispensed automatically or in containers or in wrappings in which they are placed before receipt by the vendor, and such other articles as may be determined by the State licensing agency to be suitable for a particular location and approved by the Director, Buildings Management Division. Periodicals and publications shall not be displayed, offered for sale, or sold in violation of any valid State or Federal law, regulation, or judicial decision.

(f) Vending facilities shall be operated in compliance with applicable local and State health, sanitation, and building codes or ordinances and such standards as may be prescribed by the Director, Buildings Management Division.

(g) Installation, modification, relocation, removal, and renovation of vending facilities shall be subject to the prior approval and supervision of the Director, Buildings Management Division. Costs of relocations initiated by the State licensing agency shall be paid by the State licensing agency. Costs of relocations initiated by the Director, Buildings Management Division, shall be borne by the General Services Administration.

§ 101-20.206 Protection from competition.

(a) All income from vending machines shall be offered to the State licensing agency operating a vending stand or stands on the same property except the income from vending machines which may be assigned by contract or agreement with others. Such income shall be made available to the licensing agency only for assignment to operators of vending stands on the property (limited to income from those machines which would be in reasonable proximity to a vending stand and would otherwise be in direct competition with that stand), and for program-wide purposes for which set-aside funds may be used including those in accordance with section 3(3) of the Randolph-Sheppard Act (20 U.S.C. 107(3)), and the regulations of the Department of Health, Education, and Welfare (45 CFR 409.8), namely:

(1) Maintenance and replacement of equipment;

(2) The purchase of new equipment;

(3) Management services;

(4) Ensuring a fair minimum return to operators of vending stands.

(b) Under such conditions and circumstances as are mutually agreed upon between the Regional Administrator, General Services Administration, and the Commissioner, Rehabilitation Services Administration, Department of Health, Education, and Welfare, and after consultation with the sponsoring Federal agency or agencies, employee welfare and recreational groups may share in the operation of or the income from vending machines to the extent agreed upon by these officials not to exceed 50 percent of the net proceeds. (The term "net proceeds", for the purpose of this subsection is defined as the total commissions which would normally be paid by a vending company.)

(c) On property where a vending stand permit has been approved, agreements assigning income from vending machines to employee welfare and recreational groups, unless otherwise covered by an agreement pursuant to paragraph (b) of this section, shall:

(1) Terminate (in cases where a stand exists);

(2) Not be formed;

(3) Terminate when a vending stand starts operation on the property.

(d) On property where a vending stand permit has been approved:

(1) All arrangements pertaining to the operation of vending stands not provided by contract or by permits issued to designated State licensing agencies shall terminate within 6 months;

(2) Permission to operate vending stands shall be granted only by permits to designated State licensing agencies, or by contract with others, such as a necessary basic food service operation.

§ 101-20.207 Enforcement procedures.

(a) The authorization for the establishment of a vending stand, the regulations and standards of General Services Administration, the State licensing agency, and the Department of Health, Education, and Welfare (45 CFR Part 409) shall regulate the operation of vending stands and machines.

(b) Ordinarily, day-to-day matters pertaining to the operation of the vending stand shall be resolved by the buildings manager with the blind operator of the vending stand and, when appropriate, with the State licensing agency.

(c) Violations of the regulations and standards and unresolved matters shall be reported in writing by the Director, Buildings Management Division, General Services Administration, to the State licensing agency.

(d) Any unresolved matter shall be referred to the appropriate Regional Administrator, General Services Administration, who will consult with the Department of Health, Education, and Welfare, regional office, and the designated State licensing agency.

§ 101-20.208 Review.

(a) If the Regional Administrator and the State licensing agency fail to reach agreement concerning the granting of a permit for a vending stand, the revocation or modification of a permit, the suitability of the stand location, the assignment of vending machine proceeds, the methods of operation of the stand, or other terms of the permit (including articles which may be sold), the State licensing agency shall be allowed the right to appeal such disagreements to the Administrator of General Services, Washington, DC 20405.

(b) A full report shall be obtained from the Regional Administrator from whose decision the appeal is being taken.

(c) Designated State licensing agencies shall have the right to present their arguments orally and in writing at each step of review. The Department of Health, Education, and Welfare shall be consulted for general advice on program activities and objectives. A final decision of the Administrator of General Services shall be rendered within 90 days of the filing of the appeal.

(d) Notification of the decision on appeal and the action taken thereon shall be reported to the State licensing agency and to the Department of Health, Education, and Welfare.

§ 101-20.209 Report.

At the end of each fiscal year, the General Services Administration shall report to the Department of Health, Education, and Welfare the total number of applications for vending stand locations received from State licensing agencies, the number accepted, the number denied, and the number still pending.

Subpart 101-20.3—Conduct on Federal Property

§ 101-20.300 Applicability.

These rules and regulations apply to all property under the charge and control of the General Services Administration and to all persons entering in or on such property. Each occupant agency shall be responsible for the observance of these rules and regulations.

§ 101-20.301 Inspection.

Packages, briefcases, and other containers brought into, while on, or being removed from the property are subject to inspection. A full search of a person may accompany an arrest.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)))

[43 FR 29002, July 5, 1978]

§ 101-20.302 Admission to property.

Property shall be closed to the public during other than normal working hours. The closing of property will not apply to that space in those instances where the Government has approved the after-normal-working-hours use of buildings or portions thereof for activities authorized by Subpart 101-20.7. During normal working hours, property shall be closed to the public only when situations require this action to ensure the orderly conduct of Government business. The decision to close the property shall be made by the designated official under the Occupant Emergency Program after consultation with the buildings manager and the ranking representative of the Federal Protective Service Division responsible for protection of the facility or the area. This requirement does not preempt the authority of the Regional Director, Federal Protective Service Division, or any other authorized GSA official to effect a security alert of a facility in accordance with GSA Order, Physical Security of Buildings Alert Guidelines (PBS 5930.16), dated February 20, 1976. This action shall be coordinated with the designated official. The designated official is defined in § 101-20.504-3(f) as the highest ranking official of the primary occupant agency, or the alternate highest ranking official or designee selected by mutual agreement by other occupant agency officials. When property, or a portion thereof, is closed to the public, admission to this property, or a portion, will be restricted to authorized persons who shall register upon entry to the property and shall, when requested, display Government or other identifying credentials to the Federal Protective Officers or other authorized individuals when entering, leaving, or while on the property. Failure to comply with any of the above applicable provisions is a violation of these regulations.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

[46 FR 3524, Jan. 15, 1981]

§ 101-20.303 Preservation of property.

The improper disposal of rubbish on property; the willful destruction of or damage to property; the theft of property; the creation of any hazard on property to persons or things; the throwing of articles of any kind from or at a building or the climbing upon statues, fountains, or any part of the building, is prohibited.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

[46 FR 3524, Jan. 15, 1981]

§ 101-20.304 Conformity with signs and directions.

Persons in and on property shall at all times comply with official signs of a prohibitory, regulatory, or directory nature and with the direction of Federal protective officers and other authorized individuals.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)))

[43 FR 29002, July 5, 1978]

§ 101-20.305 Disturbances.

Any unwarranted loitering, disorderly conduct, or other conduct on property which creates loud or unusual noise or a nuisance; which unreasonably obstructs the usual use of entrances, foyers, lobbies, corridors, offices, elevators, stairways, or parking lots; which otherwise impedes or disrupts the performance of official duties by Government employees; or which prevents the general public from obtaining the administrative services provided on the property in a timely manner, is prohibited.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)))
[43 FR 29002, July 5, 1978]

§ 101-20.306 Gambling.

Participating in games for money or other personal property or the operating of gambling devices, the conduct of a lottery or pool, or the selling or purchasing of numbers tickets, in or on property is prohibited. This prohibition shall not apply to the vending or exchange of chances by licensed blind operators of vending facilities for any lottery set forth in a State law and conducted by an agency of a State as authorized by section 2(a)(5) of the Randolph-Sheppard Act (20 U.S.C. 107, et seq.)

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)))
[43 FR 29002, July 5, 1978]

§ 101-20.307 Alcoholic beverages and narcotics.

Operation of a motor vehicle while on the property by a person under the influence of alcoholic beverages, narcotic drugs, hallucinogens, marijuana, barbiturates, or amphetamines is prohibited. Entering upon the property, or while on the property, under the influence of or using or possessing any narcotic drug, hallucinogen, marijuana, barbiturate, or amphetamine is prohibited. This prohibition shall not apply in cases where the drug is being used as prescribed for a patient by a licensed physician. Entering upon the property, or being on the property, under the influence of alcoholic beverages is prohibited. The use of alcoholic beverages on property is prohibited except, upon occasions and on property upon which the head of the responsible agency or his or her designee has for appropriate official uses granted an exemption in writing. The head of the responsible agency or his or her designee shall provide a copy of all exemptions granted to the buildings manager who shall inform the Federal Protective Officer, or other authorized officials, responsible for the security of the property.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

[46 FR 3524, Jan. 15, 1981]

§ 101-20.308 Soliciting, vending, and debt collection.

Soliciting alms, commercial or political soliciting, and vending of all kinds, displaying or distributing commercial advertising, or collecting private debts on GSA-controlled property is prohibited. This rule does not apply to (a) national or local drives for funds for welfare, health, or other purposes as authorized by the "Manual on Fund Raising Within the Federal Service," issued by the U.S. Office of Personnel Management under Executive Order 10927 of March 18, 1961, and sponsored or approved by the occupant agencies; (b) concessions or personal notices posted by employees on authorized bulletin boards; (c) solicitation of labor organization membership or dues authorized by occupant agencies under the Civil Service Reform Act of 1978 (Pub. L. 95-454); and (d) lessee, or its agents and employees, with respect to space leased for commercial, cultural, educational, or recreational use under the Public Buildings Cooperative Use Act of 1976 [40 U.S.C. 490(a)(16)]. Public areas of GSA-controlled property may be used for other activities permitted in accordance with Subpart 101-20.7.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

[46 FR 3525, Jan. 15, 1981]

§ 101-20.309 Distribution of handbills.

Posting or affixing materials, such as pamphlets, handbills, or flyers, on bulletin boards or elsewhere on GSA-controlled property is prohibited, except as authorized in § 101-20.308 or when these displays are conducted as part of authorized Government activities. Distribution of materials, such as pamphlets, handbills, or flyers, is prohibited, except in the public areas of the property as defined in § 101-20.701(b), unless conducted as part of authorized Government activities. Any person or organization proposing to distribute materials in a public area under this section shall first obtain a permit from the buildings manager under Subpart 101-20.7 and shall conduct distribution in accordance with the provisions of Subpart 101-20.7. Failure to comply with those provisions is a violation of these regulations.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

[46 FR 3525, Jan. 15, 1981]

§ 101-20.310 Photographs for news, advertising, or commercial purposes.

Photographs may be taken in space occupied by a tenant agency only with the consent of the occupying agency concerned. Except where security regulations apply or a Federal court order or rule prohibits it, photographs for news purposes may be taken in entrances, lobbies, foyers, corridors, or auditoriums when used for public meetings. Subject to the foregoing prohibitions, photographs for advertising and commercial purposes may be taken only with written permission of an authorized official of the agency occupying the space where the photographs are to be taken.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

[43 FR 29002, July 5, 1978]

§ 101-20.311 Dogs and other animals.

Dogs and other animals, except seeing eye dogs or other guide dogs, shall not be brought upon property for other than official purposes.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

[43 FR 29003, July 5, 1978]

§ 101-20.312 Vehicular and pedestrian traffic.

(a) Drivers of all vehicles entering or while on property shall drive in a careful and safe manner at all times and shall comply with the signals and directions of Federal protective officers or other authorized individuals and all posted traffic signs;

(b) The blocking of entrances, driveways, walks, loading platforms, or fire hydrants on property is prohibited; and

(c) Except in emergencies, parking on property is not allowed without a permit. Parking without authority, parking in unauthorized locations or in locations reserved for other persons, or parking contrary to the direction of posted signs is prohibited. Vehicles parked in violation, where warning signs are posted, shall be subject to removal at the owners' risk and expense. This paragraph may be supplemented from time to time with the approval of the Regional Administrator by the issuance and posting of such specific traffic directives as may be required, and when so issued and posted such directives shall have the same force and effect as if made a part hereof. Proof that a motor vehicle was parked in violation of these regulations or directives may be taken as prima facie evidence that the registered owner was responsible for the violation.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

[43 FR 29003, July 5, 1978]

§ 101-20.313 Weapons and explosives.

No person entering or while on property shall carry or possess firearms, other dangerous or deadly weapons, explosives, or items intended to be used to fabricate an explosive or incendiary device, either openly or concealed, except for official purposes.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

[43 FR 29003, July 5, 1978]

§ 101-20.314 Nondiscrimination.

There shall be no discrimination by segregation or otherwise against any person or persons because of race, creed, sex, color, or national origin in furnishing or by refusing to furnish to such person or persons the use of any facility of a public nature, including all services, privileges, accommodations, and activities provided thereby on the property.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

[43 FR 29003, July 5, 1978]

§ 101-20.315 Penalties and other laws.

Whoever shall be found guilty of violating any rule or regulation in this Subpart 101-20.3 while on any property under the charge and control of GSA is subject to a fine of not more than $50 or imprisonment of not more than 30 days, or both. (See 40 U.S.C. 318c.) Nothing in these rules and regulations shall be construed to abrogate any other Federal laws or regulations or any State and local laws and regulations applicable to any area in which the property is situated.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

[43 FR 29003, July 5, 1978]

Subpart 101-20.4—[Reserved]

Subpart 101-20.5—Physical Protection

§ 101-20.500 Scope of subpart.

This subpart prescribes policies and methods for the physical protection of persons, buildings, grounds, and equipment under the charge and control of GSA; requires active participation of occupant and user agencies in accomplishing certain aspects of crime prevention; requires that occupant and user agencies report any crime on GSA property to the nearest Federal Protective Service Office; and requires the establishment of occupant emergency plans and organizations to deal with emergency measures for the facility.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

[44 FR 60995, Oct. 23, 1979]

§ 101-20.501 Basic policy.

For buildings and grounds for which GSA has space assignment responsibility, GSA will furnish as normal protection not less than the degree of protection provided by commercial building operators of similar space for normal risk occupants, as determined by the Federal Protective Service. This protection may include control of building entry and inspection of packages when the Federal Protective Service determines the control is warranted for general Government occupancy and not necessitated by special activities or specific agencies. Special protection required due to the nature of the business conducted within the space or unusual public reaction to an agency's program and missions, whether or not of a continuing nature, will be determined jointly by the Federal Protective Service and the occupant agency or agencies and will be provided on a reimbursable basis in accordance with Subpart 101-21.4.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

[44 FR 49453, Aug. 23, 1979]

§ 101-20.502 Protection criteria.

Determination of the level of normal protective service will be made by the Federal Protective Service on a case-by-case basis and will consider the facility's location; size and configuration; history of criminal or disruptive incidents in the surrounding neighborhood not primarily directed toward the occupant agency's mission; extent of exterior lighting; presence of physical barriers; and other factors as may be deemed pertinent.

(Sec. 205(c), 63 Stat 390 (40 U.S.C. 486(c)))

[44 FR 49454, Aug. 23, 1979]

§ 101-20.503 GSA responsibilities.

§ 101-20.503-1 Physical protection.

GSA provides normal and special protection through mobile patrol or fixed posts manned by: Federal Protective Officers or contract uniformed personnel; security systems and devices; locking building entrances and gates during other than normal hours of occupancy; cooperation of local law enforcement agencies; or any combination thereof depending upon the facility and the degree of risk involved. The degree of normal and special protection shall be determined in accordance with § 101-20.501 after completion of a physical security survey and/or crime prevention assessment.

(Sec. 205(c), 63 Stat 390 (40 U.S.C. 486(c)))

[44 FR 49454, Aug. 23, 1979]

§ 101-20.503-2 Investigations.

GSA coordinates and cooperates with other Federal and local law enforcement agencies in investigating thefts of property and violations of Federal statutes covering other criminal activities committed in or on buildings and grounds under GSA assignment; receives, records, investigates, and evaluates incident reports, refers investigative findings to the U.S. Attorney or appropriate law enforcement agency; and maintains liaison with Federal and local law enforcement agencies for assembling and presenting evidence relating to such thefts and other criminal activities.

§ 101-20.503-3 Crime prevention.

The Federal Protective Service collects and disseminates information about criminal activity on or against property under the charge and control of GSA, provides crime prevention information programs to occupant agencies upon request, and conducts crime prevention assessments in cooperation with occupant agencies. The Federal Protective Service will, periodically, report to heads of agencies information on criminal activity in their space and the crime prevention measures taken to reduce criminal activity.

(Sec. 205(c), 63 Stat 390 (40 U.S.C. 486(c)))

[44 FR 49454, Aug. 23, 1979]

§ 101-20.504 Responsibilities of occupant agencies.

§ 101-20.504-1 General.

Occupants of GSA-assigned space shall (a) cooperate to the fullest extent possible with all pertinent facility regulations and procedures, (b) make recommendations for improving protection, (c) report promptly unlawful acts committed on or against property under the charge and control of GSA to the nearest office of the Federal Protective Service, and (d) provide planning and training guidance to employees on matters relating to protection and emergency response situations.

(Sec. 205(c), 63 Stat 390 (40 U.S.C. 486(c)))

[44 FR 60995, Oct. 23, 1979]

§ 101-20.504-2 Occupant Emergency Program.

With the exception of civil defense and enemy attacks, this section prescribes the scope and method for occupant agencies responsible for immediate positive and orderly action to safeguard life and property during facility/occupant specific emergencies.

(Sec. 205(c), 63 Stat 390 (40 U.S.C. 486(c)))

[44 FR 60995, Oct. 23, 1979]

§ 101-20.504-3 Definitions.

(a) Occupant Emergency Program is a short-term facility/occupant specific emergency response program involving occupants to minimize injury and loss of life and property in a specific facility or building.

(b) Occupant Emergency Plan is a method devised to provide emergency situations to protect life and property in a specific federally occupied space.

(c) Occupant Emergency Organization is the emergency response organization comprised of tenant employees of a Federal agency(ies) in a building designated to perform the requirements established by the Occupant Emergency Plan.

(d) Emergency is a term which involves bombings, bomb threats, civil disturbances, fires, explosions, evacuations, floods, electrical power failure, medical emergencies, hurricanes, tornadoes and earthquakes or other natural disasters or accidental human-caused disasters. The term does not include emergency preparedness as it applies to civil defense matters, such as potential or actual enemy attack.

(e) Primary Occupant Agency is the Federal agency having the largest number of employees working in a building or facility. This determination is usually based upon each agency's space requirements.

(f) Designated Official is the highest ranking official of the primary occupant agency or the alternate highest ranking official or designee selected by mutual agreement by other occupant agency officials.

(g) Occupants is a term to describe both visitors and resident Federal employees working in a building or facility.

(h) Occupant agency is another term to describe resident Federal agencies assigned to a building or facility.

(Sec. 205(c), 63 Stat 390 (40 U.S.C. 486(c)))

[44 FR 60996, Oct. 23, 1979]

§ 101-20.504-4 Responsibilities.

(a) The Designated official is responsible for developing, implementing, and maintaining a current Occupant Emergency Plan with the assistance of GSA; and for establishing, staffing, and maintaining the occupant emergency organization with personnel of tenant agencies. This official shall ensure that designees of the organization are trained to perform the functions of the plan.

(b) All Federal occupant agencies shall fully cooperate with the Designated Official in developing, maintaining, and implementing the plan; and staffing the organization making employees available for training.

(c) The Office of Federal Protective Service Management is responsible for providing national policy program guidance and ensuring that regional offices of GSA are properly administering the program. FPS regional offices are responsible for annual review of the plans and organizations to ensure that they are current and adequate; and are also responsible for providing training guidance information when requested by Designated Officials.

(d) In accordance with established criteria, the GSA buildings manager shall provide assistance to the Occupant Emergency Organization with personnel who are technically qualified in the operation of utility systems and the installation and maintenance of protective equipment, such as warning devices and firefighting apparatus, and shall promote training for buildings occupants, and others as required.

(e) The GSA representative (buildings manager and Federal Protective Service Official, as appropriate) shall assist the Designated Official and appropriate officials of the occupant agency(ies), and shall cooperate with the local authorities in achieving the objectives of the plan. In this connection, the buildings manager and Federal Protective Service Official shall be available to provide information and guidance as required.

(f) In leased space GSA will solicit the assistance of the lessor in establishing and maintaining an Occupant Emergency Plan for that space. Where appropriate, the Designated Official may invite the participation of non-Federal occupants to become part of the plan.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))
[44 FR 60996, Oct. 23, 1979]

§ 101-20.504-5 Initiating action.

The decision to activate the organization shall be based upon the best available information; an understanding of local tensions; sensitivity of target agency(ies); previous experience; and the advice of the buildings manager, Federal Protective Service Official, and State and Federal law enforcement agencies. When there is an immediate danger to persons, such as fire, explosions, or the discovery of an actual explosive device (not a bomb threat), the occupants shall be evacuated or relocated in accordance with the plan, without consultation, by sounding the fire alarm system or through other acceptable means. When there is advance information of any emergency during normal duty hours, the Designated Official shall initiate action according to the plan, including evacuation or relocation of occupants. After normal duty hours, the senior Federal official present shall represent the Designated Official and initate action to cope with emergencies, including evacuation or relocation in accordance with the plan. As soon as practical, the Designated Official shall be apprised of the situation and consequent action.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c))
[44 FR 60996, Oct. 23, 1979]

Subpart 101-20.6—Sidewalk Installation, Repair, and Replacement

§ 101-20.600 Scope of subpart.

This subpart contains the regulations governing the installation, repair, and replacement of sidewalks around buildings, installations, properties, or grounds under the control of executive agencies and owned by the United States within the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States, by reimbursement to a State or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, or the territory or possession of the United States. They are issued with the approval of the Director of the Office of Management and Budget.

§ 101-20.601 Responsibilities.

Upon prior consent of the affected executive agency, the State in which the property lies may perform or arrange for the installation, repair, and replacement of sidewalks, and obtain reimbursement therefor from the affected executive agency, or, if mutually agreed upon, the executive agency affected may contract or otherwise arrange for and pay directly for such installation, repair, and replacement.

§ 101-20.602 Standards.

(a) Sidewalks shall be installed, repaired, or replaced with due consideration to the standards and specifications prescribed by the State or political subdivision thereof. However, where the executive agency determines that it is necessary, in order to achieve or retain architectural harmony with the surroundings, the executive agency may prescribe other standards and specifications.

(b) In all cases, sidewalk installations, repairs, and replacements shall conform to the American Standard Specifications for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped, Number A117.1-R 1971.

§ 101-20.603 Fund availability.

Funds appropriated to executive agencies for installation, repair, and maintenance, generally, shall be available for reimbursement for the actual or estimated cost of the sidewalk installation, repair, or replacement to a State or to make other arrangements to effect payment for the work involved.

§ 101-20.604 Tort liability.

In accordance with the provisions of Pub. L. 89-344, no agreement with a State for the installation, repair, or replacement of a sidewalk shall increase or enlarge the tort liability of the United States for injuries to persons or damage to property.

Subpart 101-20.7—Occasional Use of Public Areas in Public Buildings

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

SOURCE: 46 FR 3525, Jan. 15, 1981, unless otherwise noted.

§ 101-20.700 Scope of subpart.

The Public Buildings Cooperative Use Act of 1976 (Pub. L. 94-541), among other things, encourages the occasional use of public areas of public buildings and grounds for cultural, educational, and recreational activities. The purpose of these regulations is to create rules and procedures to be followed in permitting the occasional use of public buildings and grounds for these and other activities authorized by this subpart.

§ 101-20.701 Definitions.

(a) "Public building" shall mean any building and its grounds, or part thereof, under the charge and control of the General Services Administration.

(b) "Public area" shall mean any area of a public building or its grounds ordinarily open to members of the public, such as lobbies, courtyards, auditoriums, meeting rooms, and any other area not specifically leased by any lessee of the public building.

(c) "Buildings manager" shall mean the employee of GSA designated to supervise the implementation of the occasional use provision of the Public Buildings Cooperative Use Act within a particular public building and its grounds.

(d) "Regional officer" shall mean the regional director of the Buildings Management Division of GSA designated to supervise the implementation of the occasional use provision of the Public Buildings Cooperative Use Act within those regions that GSA may from time-to-time create.

(e) "Applicant" shall mean any person or organization who applies for a permit to use a public area within a public building or its grounds.

(f) "Permittee" shall mean any person or organization who has been granted a permit to use a public area within a public building or its grounds.

(g) "Recognized labor organization" shall mean a labor organization recognized under Title VII of the Civil Service Reform Act of 1978 (Pub. L. 95-454) governing labor management relations.

(h) "Cultural activities" shall mean activities, including but not limited to films, dramatics, dances, and musical presentations, and fine art exhibits, whether or not these activities are intended to make a profit.

(i) "Educational activities" shall mean activities, including but not limited to the operation of libraries, schools, day care centers, laboratories, and lecture and demonstration facilities.

(j) "Recreational activities" shall mean activities, including but not limited to the operation of gymnasiums and related facilities.

(k) "Commercial activities" shall mean activities undertaken for the primary purpose of obtaining a profit for the benefit of an individual or organization organized for profit, as opposed to activities whose purpose is the expression of ideas or advocacy of causes, whether of a religious, artistic, political, charitable, educational, or cultural nature, where the commercial aspects involved are incidental to the purpose of the activity.

§ 101-20.702 Permits.

(a) *Application.* Any person or organization desiring to use a public area of a public building or its grounds shall first obtain a permit from the buildings manager. To obtain this permit, a copy, sample, or description of any material or item proposed for distribution or display and a written statement shall be submitted setting forth the following:

(1) The full name, mailing address, and telephone number of the applicant;

(2) The full name, mailing address, and telephone number of the person or organization sponsoring, promoting, or conducting the proposed activity;

(3) The full name, mailing address, and telephone number of the individual person or persons who will have supervision of and responsibility for the proposed activity;

(4) A description of the proposed activity;

(5) The proposed dates and hours during which the activity is to be carried out; and

(6) The approximate number of persons to be engaged in this activity, if known.

(b) *Applicants authority.* If the applicant claims to represent an organization, a letter or other documentation is required showing that the applicant has authority to represent that organization.

(c) *Applications for permit to solicit contributions.* Any person or organization desiring to use a public area of a public building or its grounds for purposes of soliciting funds not prohibited by § 101-20.308 shall, in addition to the above requirements, submit a statement signed by the applicant that the:

(1) Applicant represents and will be soliciting funds for the sole benefit of a religion or religious group;

(2) Applicant's organization has received an official Internal Revenue Service (IRS) ruling or letter of determination stating that the organization or its parent organization qualifies for tax-exempt status under 26 U.S.C. 501 (c)(3), (c)(4), or (c)(5); or

(3) Applicant's organization has applied to the IRS for a determination of tax-exempt status under 26 U.S.C. 501 (c)(3), (c)(4), or (c)(5), and that the IRS has not yet issued a final administrative ruling or determination of this status.

(d) *Failure to complete application.* Failure to submit the information required by paragraphs (a), (b), and (c), of this section shall result in denial of a permit.

(e) *Filing.* Applications shall be filed during regular working hours in the buildings manager's office or such other place as he or she may designate. Applications may be submitted by mail or in person.

(f) *Permit issuance.* A single permit shall be issued within 10 days following receipt of the completed application by the buildings manager.

(1) Each permit shall authorize the permittee to conduct the activity for the period of time requested; provided that a permit shall not be issued for a period of time in excess of 30 calendar days, unless specifically approved by the regional officer. After the expiration of the permit, a new permit may be issued to the former permit holder upon submission of a new application. In such a case, applicants may be permitted to incorporate by reference any

required information or documentation filed with a previous application.

(2) If permits are requested for the same public area for the same time period, the buildings manager will issue permits on a first-come-first-served basis.

§ 101-20.703 Disapproval of application or cancellation of permit.

(a) *Grounds for disapproval or cancellation.* The buildings manager shall disapprove any application or cancel an issued permit for use of a public area if the proposed use:

(1) Is a commercial activity as defined in § 101-20.701(k);

(2) Obstructs the free ingress and egress of the users of the public area;

(3) Damages the public building or any property within the public building;

(4) Disrupts the official business of the agency or agencies occupying the public buildings;

(5) Interferes with a tenant's quiet enjoyment of their leasehold;

(6) Interferes with a previously approved use of the public area by another member, or members, of the public;

(7) Is obscene within the meaning of obscenity in 18 U.S.C. 1461-65;

(8) Pertains to any judicial proceeding then pending in the public building and this use is intended to influence or impede the judicial proceeding;

(9) Is in violation of the prohibition against political solicitations in 18 U.S.C. 603; or

(10) Is being conducted with a permit issued in response to an intentionally false or incomplete application.

(b) *Notice of disapproval of application or cancellation of permit.* Upon disappproving an application or canceling an issued permit for any of the above reasons, the buildings manager shall:

(1) Notify promptly the applicant or permittee in writing of disapproval or cancellation and the reasons for this action; and

(2) Inform the applicant of his or her right to appeal the disapproval or cancellation to the regional officer under § 101-20.704.

§ 101-20.704 Appeals from disapproval of application or cancellation of permit.

(a) *Time for appeal.* Within 5 calendar days of notification of the buildings manager's decision to disapprove any application or cancel an issued permit under § 101-20.703, the applicant or permittee may appeal the buildings manager's determination to the regional officer by notifying the regional officer, in writing, that he or she desires to appeal.

(b) *Record.* Although a trial-type hearing or presentation is not required, the applicant or permittee and the buildings manager shall have the opportunity to orally state the reasons that the application or cancellation should or should not be approved. Written materials and documents may also be submitted. The regional officer shall affirm or reverse the buildings manager's determination based on this information.

(c) *Time for review.* The regional officer shall affirm or reverse the buildings manager's determination within 10 days of the date on which the regional officer received the applicant or permittee's notification of his or her desire to appeal. If the regional officer does not rule within this period, the application will be considered to be approved or the permit validly issued.

(d) *Notification.* Upon reaching a decision on an appeal taken under § 101-20.704, the regional office shall promptly notify the applicant or permittee and the buildings manager of the decision and the reasons therefore.

§ 101-20.705 Schedule of use.

(a) *Schedule.* Nothing in these regulations shall prevent the buildings manager from:

(1) Reserving certain times of the year for use of public areas of the public buildings for official Government business;

(2) Setting aside certain days or time for maintenance, construction, or repair; or

(3) Preempting an approved use of a public area for official Government business.

(b) *Time.* Public areas made available may be used during or after the regular working hours of Federal agencies, provided this afterhour use will not interfere with the conduct of Government business. When public areas are used by permittees under Subpart 101-20.7 after normal working hours, all adjacent areas not approved for afterhours usage shall be locked, identified by signs, or physically barricaded, as appropriate, to restrict the participants' movements to only that space or areas(s) approved for usage.

§ 101-20.706 Services and costs.

(a) *Costs.* The space to be provided under these regulations is furnished free of charge. Services normally provided at the building in question, such as security, cleaning, heating, ventilating, and air-conditioning, shall also be provided free of charge by GSA. The applicant shall be requested to reimburse GSA for services over and above those normally provided. If the applicant desires to provide services, such as security and cleaning, this request must be approved by the regional officer. The Regional Administrator may provide the services free of charge if the cost is insignificant and if it is in the public's interest.

(b) *Alteration of public area.* Generally, there shall be no alteration to public areas used under these regulations by persons, firms, or organizations, unless it is determined by the Regional Administrator that changes should be made in a public building to encourage and aid in the proposed use. The permittee must make adequate provisions for the:

(1) Protection of the safety of an user of the public area; and

(2) Prevention of injury or damage to the public building.

(c) *Program requirements.* The furnishing of any item necessary for the proposed activity, such as tickets, audiovisual equipment, etc., shall be the responsibility of the permittee.

§ 101-20.707 Restrictions on behavior.

(a) *General.* The permittee shall be subject to the rules and regulations governing public buildings and grounds in Subpart 101-20.3. In addition, a permittee shall:

(1) Not misrepresent his or her identity to the public;

(2) Not distribute any item for which the prior approval of the buildings manager or his or her representative has not been obtained, under § 101-20.702(d) of these regulations;

(3) Not leave leaflets or other material unattended at any place on GSA-controlled property;

(4) Not conduct any activities in a misleading or fraudulent manner;

(5) Not discriminate on the basis of race, creed, color, sex, or national origin, in conducting the permitted activities; and

(6) Not engage in activities that would interfere with the preference afforded the blind licensees under the Randolph-Sheppard Act (20 U.S.C. 107).

(b) *Identification badges.* Permittees engaging in the solicitation of funds not prohibited by § 101-20.308 shall wear an identification badge at all times on GSA-controlled property containing the following:

(1) Name;

(2) Address;

(3) Telephone number; and

(4) Name of group or organization.

§ 101-20.708 Posting of notices and information bulletins.

Only the following types of notices or information bulletins may be posted on bulletin boards in nonpublic areas of the public building:

(a) Official business notices of the occupant agency;

(b) Request for funds for welfare, health, and other purposes, approved by the head of the occupant agency;

(c) Notices to Federal employees by concessionaires and agency employees of groups or organizations recognized by the occupant agency;

(d) Personal notices of agency employees, such as the sale of an employee's home, requests for carpool participation, etc.; and

(e) Recognized labor organization notices and issuances on space provided by the agency under agreement between the agency and the recognized labor organization.

§ 101-20.709 Nonaffiliation with the Government.

The General Services Administration reserves the right to advise the public through signs or announcements of the presence of any permittees and of their nonaffiliation with the Federal Government.

PART 101-21—FEDERAL BUILDINGS FUND

Sec.
101-21.000 Scope of part.
101-21.001 Authority.
101-21.002 Basic policy.
101-21.003 Definition of terms.
101-21.003-1 Federal Buildings Fund.
101-21.003-2 Standard level user charge.
101-21.003-3 Standard levels of service.
101-21.003-4 Special services.
101-21.003-5 Space and services.

Subpart 101-21.1—General

101-21.101 Background.
101-21.102 Applicability.

Subpart 101-21.2—Standard Level User Charge

101-21.200 General.
101-21.201 Determination of standard level user charge.
101-21.202 Joint-use space.
101-21.203 Exceptions.
101-21.204 Exemptions.
101-21.205 Space and services provided by other executive agencies.
101-21.206 Revision of standard level user charge.
101-21.207 Annual projections.

Subpart 101-21.3—Standard Levels of Service

101-21.300 General.
101-21.300-1 Flexitime.
101-21.301 Standard services for cleaning, mechanical operation, and maintenance.
101-21.302 Other standard services.
101-21.303 Space exempted from the standard levels of service.

Subpart 101-21.4—Reimbursable Services

101-21.401 Special services.
101-21.402 Services performed by other agencies.

Subpart 101-21.5—Funding Projects

Sec.
101-21.501 GSA funding responsibility.
101-21.502 Funding responsibilities of other agencies.

Subpart 101-21.6—Billings, Payments, and Related Budgeting Information for Space and Services Furnished by the General Services Administration

Sec.
101-21.600 Applicability.
101-21.601 Budgeting information for standard level user charges.
101-21.602 Billing procedures for standard level user charges.
101-21.602-1 Billing credits.
101-21.603 Budgeting information for reimbursable charges.
101-21.604 Billing procedures for reimbursable charges.
101-21.605 Payment procedures.
101-21.606 Reviews and appeals.

Subparts 101-21.7—101-21.48—[Reserved]

Subpart 101-21.49—Forms

101-21.4900 Scope of subpart.
101-21.4901 GSA forms.
101-21.4901-2957 GSA Form 2957, Reimbursable Work Authorization.

AUTHORITY: 63 Stat. 377; 73 Stat. 479 (40 U.S.C. 490 note) 86 Stat. 216, unless otherwise noted.

SOURCE: 39 FR 23232, June 27, 1974, unless otherwise noted.

§ 101-21.000 Scope of part.

This part prescribes policies and procedures to be followed for the furnishing of space and services by GSA in Government-owned and -leased buildings.

§ 101-21.001 Authority.

This part implements the applicable provisions of the Public Buildings Amendments of 1972 (86 Stat. 216), the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), the Public Buildings Act of 1959 (73 Stat. 479), and the Reorganization Plan No. 18 of 1950 (40 U.S.C. 490 note).

§ 101-21.002 Basic policy.

(a) GSA will charge anyone for space services furnished by GSA (unless exempted by the Administrator of General Services) a standard level user charge which will approximate commercial charges for comparable space and services. The services to be included in this charge will be those normally furnished in commercial practice.

(b) GSA will furnish services additional to those included in the standard level user charge on a reimbursable basis.

(c) GSA will furnish alterations on a reimbursable basis in buildings where GSA is responsible for alterations only.

§ 101-21.003 Definition of terms.

The following definitions are established for terms used in this Subchapter D.

§ 101-21.003-1 Federal Buildings Fund.

"Federal Buildings Fund" means the fund into which are deposited the standard level user charges and other revenues and collections cited in section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j)), and from which monies shall be available for expenditures for real property management and related activities in such amounts as are specified in annual appropriation acts without regard to fiscal year limitations.

§ 101-21.003-2 Standard level user charge.

"Standard level user charge" means the rate charged for assigned space in Government-owned or -leased property for which GSA has assignment responsibility. The user charge approximates commercial charges for comparable space and services.

§ 101-21.003-3 Standard levels of service.

"Standard levels of service" means those services provided as part of the standard level user charge, depending upon the type of space occupied, and as defined in Subpart 101-21.3.

§ 101-21.003-4 Special services.

"Special services" means those services that are not included in the standard level of services but are provided by GSA on a reimbursable basis upon request.

§ 101-21.003-5 Space and services.

"Space and services" means the combination of space occupied and the related services provided for that space.

Subpart 101-21.1—General

§ 101-21.101 Background.

The principal intent of section 210(d) of the Federal Property and Administrative Services Act of 1949, as amended, is to promote greater efficiency and effectiveness in the use and management of Government-owned and -leased space. To this end, the assessment of charges that approximate commercial rates for comparable space and services will stimulate economic space utilization, induce performance budgeting through the more realistic reporting of program costs, provide the basis for a responsible landlord-tenant relationship between GSA and other agencies, and establish a sound financial structure for the acquisition, construction, repair, alteration, maintenance, protection, and operation of real property.

§ 101-21.102 Applicability.

Rules and regulations in this Part 101-21 apply to all agencies assigned space by GSA.

Subpart 101-21.2—Standard Level User Charge

§ 101-21.200 General.

This subpart prescribes the policies and procedures governing the calculation and levying of a standard level user charge to be assessed for space for which GSA has assignment responsibility as payment for space and services provided by GSA.

§ 101-21.201 Determination of standard level user charge.

The standard level user charge is established by GSA and approved by the Office of Management and Budget. The charge reflects approximate equivalent commercial rates for comparable space and services, and is based on the type, quality, and geographic location of the space provided.

§ 101-21.202 Joint-use space.

In those buildings where GSA has assignment responsibility and there is joint-use space such as cafeterias, auditoriums, conference rooms, credit unions, and snack bars, each agency provided access to or use of the facilities occupying the joint-use space will be charged a pro rata share of the space costs based on the percentage of the space assigned.

§ 101-21.203 Exceptions.

In those buildings where GSA is responsible only for alterations, the charges for such alterations will approximate the cost incurred.

§ 101-21.204 Exemptions.

The Administrator of General Services may exempt any occupant from the standard level user charge if he decides that application of the charge would be infeasible or impractical. Requests for exemption must be made in writing to the Administrator.

§ 101-21.205 Space and services provided by other executive agencies.

Any executive agency other than GSA that provides to anyone space and services is authorized to charge the occupant for the space and services at rates approved by the Administrator of General Services.

§ 101-21.206 Revision of standard level user charge.

GSA will review the standard level user charge annually to insure that it approximates commercial rates. Rates will be revised according to the criteria described in § 101-21.201.

§ 101-21.207 Annual projections.

Annual projections of space assignments and related services are prescribed to provide occupant agencies with accurate data necessary for budget submission. Procedures for annual projections are described in § 101-21.601.

Subpart 101-21.3—Standard Levels of Service

§ 101-21.300 General.

The levels of service included in the Standard Level User Charge are approximately the same as those currently furnished in commercial practice. They are based on the effort required to service the occupant agency's space for a 5-day week (Monday through Friday), one-shift regular work schedule. Adequate building startup services before the occupant agency starts the regular work schedule and shutdown services after the occupant agency ceases the regular work schedule, even though the working hours of the occupant agency may be staggered, will be provided by GSA. Space, automatic elevator systems, lights, and small office and business machines may be used on an incidental basis 24 hours a day, 7 days a week without additional payment to GSA where access by the occupant is available without additional cost to GSA.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

[42 FR 62485, Dec. 13, 1977]

§ 101-21.300-1 Flexitime.

Occupant agencies who extend their regular work schedule by a system of flexible hours shall reimburse GSA for the actual cost of the additional services required.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

[42 FR 62485, Dec. 13, 1977]

§ 101-21.301 Standard services for cleaning, mechanical operation, and maintenance.

Standard services for cleaning, mechanical operation, and maintenance shall be accomplished in accordance with established GSA standards as cited in Subpart 101-20.1.

§ 101-21.302 Other standard services.

GSA may provide additional services at appropriate levels and times that the Administrator of General Services determines to be necessary for efficient operations and proper servicing of space under the assignment responsibility of GSA.

§ 101-21.303 Space exempted from the standard levels of service.

The Administrator of General Services may exempt from the standard levels of service space for which, because of its limited square footage or functional use, application of the standard levels of service would be infeasible or impractical.

Subpart 101-21.4—Reimbursable Services

§ 101-21.401 Special services.

Special services not included in the standard levels of service are provided by GSA on a reimbursable basis. Funds for reimbursable services should be included in occupant agency budget submissions.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))
[45 FR 22933, Apr. 4, 1980]

§ 101-21.402 Services performed by other agencies.

Agencies occupying space under the assignment responsibility of GSA that perform or contract for services normally provided for in the standard level user charge levied by GSA will be reimbursed by GSA for the cost of services performed. The amount of reimbursement will be limited to the cost of the services to GSA if GSA had provided them. Approval to perform or contract for such services must be obtained from the GSA regional offices.

Subpart 101-21.5—Funding Projects

§ 101-21.501 GSA funding responsibility.

Projects for the construction or alteration of public buildings, or for the alteration of leased buildings, for which GSA is responsible will be financed from the Federal Buildings Fund.

§ 101-21.502 Funding responsibilities of other agencies.

(a) A department or agency may request an appropriation to cover the cost of the construction or acquisition of a facility defined as a public building in § 101-19.003-6 when the Administrator of General Services has obtained the authorization therefor and concurs with the request and approval has been given by the Office of Management and Budget. The construction or acquisition of the facility shall be performed by GSA.

(b) GSA shall, upon the request of a department or agency, construct, alter, or acquire buildings other than public buildings which are normally financed by other agencies upon condition that funds to cover the cost of the work shall be transferred or reimbursement shall be made to GSA.

(c) Each Federal agency shall be responsible for the financing of special use facilities and equipment not contemplated in the approved project.

Subpart 101-21.6—Billings, Payments, and Related Budgeting Information for Space and Services Furnished by the General Services Administration

§ 101-21.600 Applicability.

These rules and regulations apply to GSA and all agencies furnished space and related services by GSA.

§ 101-21.601 Budgeting information for standard level user charges.

(a) GSA provides to agencies summary level and detailed documentation in support of budgetary information it submits for the space and related services it furnishes. The documentation identifies organizations and organizational elements by an agency and bureau code numbering system.

(b) Federal agencies that require relocation of other agencies because of expanding space needs are responsible for funding (1) moving and related costs incurred by GSA in relocating displaced agencies and, (2) with respect to that amount of replacement space for the space previously occupied by the displaced agency(ies), such alterations above the standard provided by GSA as are required to make such amount of replacement space comparable to such previously occupied space on a square foot for square foot basis.

§ 101-21.602 Billing procedures for standard level user charges.

(a) Bills for standard level user charges are normally rendered to the Central Office headquarters of each agency occupying space under the assignment responsibility of GSA. Under the Simplified Interagency Billing and Collection (SIBAC) procedure, bills are directed to the level of organization within an agency which relates to a Treasury Department 8-digit station symbol.

(b) Bills for charges applicable to current space assignments are rendered quarterly at the beginning of the quarter. The billing includes adjustments for billing errors and changes in space assignments made prior to or during the previous quarter. Documentation delineating billing errors and changes in space assignments are provided with bills.

(c) Agencies which have been assigned an 8-digit station symbol by the Treasury Department (SIBAC agencies) are billed in accordance with the procedures prescribed by the Treasury Fiscal Requirements Manual, Part VI, Chapter 5000. Non-SIBAC agencies are billed on GSA Form 789, Statement Voucher, and Schedule of Withdrawals and Credits (illustrated in § 101-2.4902-789).

§ 101-21.602-1 Billing credits.

Effective July 1, 1975, agencies may request reductions in the standard levels of service; e.g., cleaning, protection, etc. Wherever it is practical and feasible for GSA to implement such reduced levels of service, and they not result in damage or deterioration to the buildings, create health or safety hazards, nor result in higher costs to GSA, such requests will be honored. Where such reduced levels of service are provided, appropriate credit will be included in agency billing.

§ 101-21.603 Budgeting information for reimbursable charges.

Estimates of recurring reimbursable services and charges are provided to agencies which have requested such services each year concurrently with the standard level user charge listings for the applicable budget year.

§ 101-21.604 Billing procedures for reimbursable charges.

(a) Charges for reimbursable services are billed to the level of organization within an agency which relates to a Department of the Treasury assigned 8-digit station symbol (SIBAC agencies). This is accomplished under the Simplified Intragovernmental Billing and Collection (SIBAC) procedure. (See Treasury Fiscal Requirements Manual, Part VI, Chapter 5000.) Non-SIBAC agencies are charged for reimbursable services by GSA billing directly to the agency paying office cited on the reimbursable work authorization request. (See § 101-21.4901-2957, GSA Form 2957, Reimbursable Work Authorization.)

(b) GSA Form 789, Statement, Voucher, and Schedule of Withdrawals and Credits is used for billing purposes for non-SIBAC agencies. (See illustration at § 101-2.4902-789.)

(c) Rates charged for reimbursable services shall be fixed to recover the approximate cost incurred by GSA in providing such services.

(d) The following basic types of work are performed by GSA on a fixed price reimbursable basis:

(1) Recurring services above the standard levels, such as cleaning in excess of standard level;

(2) Nonrecurring services performed above standard levels of service, such as out-of-cycle painting;

(3) Repairs and alterations in buildings not controlled by GSA;

(4) Special space alterations and adjustments performed by GSA in GSA-operated buildings, which are requested and financed by other agencies in accordance with § 101-20.105, *Reimbursable services;* and

(5) Services financed by other agencies but performed by GSA personnel on construction and alteration projects.

(e) Work authorizations which must be completed before reimbursable work is begun must describe the work ordered and include a fixed price representing the cost for the work described. Work authorizations must be signed by a responsible official of the agency requesting the work, and must contain a citation of the appropriation or fund to be charged and a statement that the funds are available for immediate obligation.

(f) Bills for recurring reimbursable services are rendered in advance. A 12-month authorization, with the right to cancel (subject to incurred costs and obligations) upon 60 days' notice by either party must be completed and forwarded to GSA prior to the beginning of the fiscal year. Authorizations initiated during the fiscal year must reflect the charge for the remainder of the fiscal year.

(g) Bills for non-recurring services, for repairs and alterations, and for transfer projects financed by other agencies are rendered in advance at the time work authorizations are signed.

(h) Agencies shall ensure that bills for special space alteration services ordered by them under the provisions of § 101-20.105(a) shall be rendered by the contractor under indefinite quantity contracts or by the lessors under unit price agreements directly to the agencies' paying office. The agencies shall be responsible for timely payment and for resolving any billing problems in regard to orders they place under the contracts or agreements.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

[39 FR 23232, June 27, 1974, as amended at 43 FR 11820, Mar. 22, 1978; 45 FR 22933, Apr. 4, 1980]

§ 101-21.605 Payment procedures.

Payment of billings for space and services to SIBAC agencies shall be in accordance with the procedures prescribed by the Treasury Fiscal Requirements Manual, Part VI, Chapter 5000. Billings for space and services to non-SIBAC agencies shall be paid promptly by check or transfer document upon receipt of the billing document.

§ 101-21.606 Reviews and appeals.

(a) Agencies may at any time request a regional review of the measurement, classification, quality rating, service levels provided, or charges assessed that pertain to the space assignment without resorting to formal procedures. Such requests do not constitute appeals and should be directed to the appropriate GSA regional office.

(b) Agencies may file formal appeals on the standard level user charge assessed, but only when the charge assessed is in excess of the comparable commercial square foot rates by 25 percent or 50 cents a square foot, whichever is greater, or when the quarterly standard level user charge is in excess of the comparable commercial charge for that quality of space by more than $12,500. To determine if the standard level user charge assessed is subject to appeal under this procedure, an agency is required to compare its assigned space with other space in the surrounding community that (1) is available in similar size blocks of space in a comparable location, (2) is the same type of space as defined by GSA, (3) is of similar quality rating as determined by GSA criteria, and (4) provides similar service levels as part of the charges. Agencies filing appeals must develop documentation supporting an appeal of the standard level user charge assessed using the factors described in this paragraph.

(c) An appeal shall initially be filed by local agency officials with the appropriate GSA regional office and include all pertinent information and documentation supporting the need for the appeal. The GSA regional office will verify the data submitted and perform additional investigation as necessary. The GSA Regional Administrator will determine the validity of the appeal and will notify the appealing agency of his ruling.

(d) A further appeal may be filled by the agency's bureau level officials with the Commissioner, Public Buildings Service, GSA, if an equitable resolution has not been obtained from the initial appeal. The second stage appeal must provide supporting information justifying the continuation of the appeal.

(e) A head of an agency may further appeal to the Administrator of General Services only after the procedure to obtain prior resolution at the first two levels has been followed. Documentation of the procedure followed for prior resolution must accompany an appeal to the Administrator. Decisions made by the Administrator shall be final.

(f) Adjustments to the standard level user charge rates that emanate from the reviews and appeals procedure are effective at the beginning of the quarter following the ruling. Adjusted rates remain in effect for the remainder of the fiscal year.

[39 FR 23232, June 27, 1974, as amended at 40 FR 23856, June 3, 1975]

Subparts 101-21.7-101-21.48—[Reserved]

Subpart 101-21.49—Forms

§ 101-21.4900 Scope of subpart.

This subpart contains information on forms that pertain to reimbursable services.

§ 101-21.4901 GSA forms.

(a) The form referenced in § 101-21.4901 is a GSA form. The subsection number in this section corresponds to the GSA form number.

(b) Agencies may obtain information and a supply of forms from any GSA buildings manager.

§ 101-21.4901-2957 GSA Form 2957, Reimbursable Work Authorization.

[NOTE: Form is filed as part of original document]

APPENDIX TO SUBCHAPTER D—TEMPORARY REGULATIONS

FPMR Temporary Regulations	Subject	Expires	FR Publication
[1] D-65	Federal employee parking	Dec. 31, 1981	44 FR 53162, Sept. 13, 1979.
D-65, Supp. 1	do	Dec. 31, 1981	45 FR 61304, Sept. 16, 1980.
[1] D-65, Supp. 2	do	Dec. 31, 1981	46 FR 3021, Jan. 13, 1981.
[1] D-66	Federal standards for accommodations for the physically handicapped.	July 30, 1981	45 FR 67664, Oct. 14, 1980.

[1] These temporary regulations appear in full text below.

EDITORIAL NOTE: The following is a list of temporary regulations, except delegations of authority, which relate to Federal property management and are in effect as of the revision date of this volume.

[FPMR Temp. Reg. D-65]

FEDERAL EMPLOYEE PARKING

1. *Purpose.* This regulation prescribes revised policies and procedures for the assignment of Federal employee parking spaces and the assessment of charges for the use of these spaces.

2. *Effective date.* This regulation is effective November 1, 1979.

3. *Expiration date.* This regulation expires August 15, 1980, unless sooner revised or superseded. Prior to the expiration date, a permanent regulation will be issued. (See paragraph 15, Comments.)

4. *Background.* This regulation is issued pursuant to Office of Management and Budget (OMB) Circular A-118, Federal Employee Parking Facilities.

5. *Definitions.* a. "Agency parking" means vehicle parking spaces under the jurisdiction and/or control of a Federal agency which are used for parking Government vehicles, other official vehicles, visitor vehicles, and employee vehicles.

b. "Carpool" means a group of two or more people using a motor vehicle for transportation to and from work.

c. "Employee parking" means the parking spaces assigned for the use of employee-owned vehicles other than those classified as "official parking" in subparagraph f.

d. "Federal agency" means any executive department or independent establishment in the executive branch of Government, including any wholly owned Government corporation.

e. "Handicapped employee" means a Government employee who has physical or mental impairments that substantially limit one or more major life activities and that, for all practical purposes, preclude use of public transportation. "Major life activities" means functions such as caring for oneself, performing manual tasks, walking, seeing, and hearing. Justification for this priority may require certification by an agency medical unit, including the Veterans Administration, or by the Public Health Service.

f. "Official parking" means parking spaces reserved for Government-owned or Government-leased vehicles, or for the privately owned vehicles of Federal judges and Members of Congress, or for visitors to Federal facilities.

g. "Parking space" means the area allocated in a parking facility for the temporary storage of one passenger-carrying motor vehicle.

h. "Regular member of a carpool" means a person who travels daily (leave excepted) in a carpool for a minimum distance of 1 mile each way. In addition, an agency may define a regular member as one whose worksite is located within a specific but reasonable distance from the parking facility.

i. "Vanpool" means a group of 8 to 15 persons using a van, specifically designed to carry passengers, for transportation to and from work in a single daily round trip. This excludes automobiles and buses.

j. "Visitor parking" means parking spaces reserved for the exclusive use of visitors to Federal facilities.

6. *Policy.* a. Vehicle parking facilities to accommodate the needs of Federal agencies shall be limited to the minimum necessary to avoid impairment of Government operations and shall be administered in full compliance with carpooling regulations. Federal employees, contractor employees, and occupant employees who are provided parking in Government-controlled space shall be assessed a charge equivalent to the fair monthly rental value for the use of equivalent commercial space, subject to the terms, exemptions, and conditions stated in this regulation.

b. All vehicle parking facilities will be consistent with the character of other properties in the neighborhood and local planning requirements, will not adversely affect the use or appearance of the property, and will not constitute a traffic hazard.

7. *Priority of assignment of parking spaces.* a. Vehicle parking spaces shall first be reserved for OFFICIAL needs in the following order of priority:

(1) Mailcarrier maneuvering area and official Postal Service vehicle parking (including contract mail-hauling vehicles and private vehicles of rural carriers) at buildings containing Postal Service mailing operations.

(2) Government-owned vehicles specially outfitted and used for criminal apprehension law enforcement activities and firefighting and other emergency vehicles.

(3) Privately owned vehicles of Federal judges and Members of Congress. Priority is limited to these individuals for security purposes and does not include members of their staffs.

(4) Government-owned or leased vehicles other than those listed in subparagraphs (1) and (2) of this subparagraph a. These include motor pool dispatch vehicles and vehicles assigned to agencies for general use.

(a) The total number of parking spaces provided for all Government-owned vehicles shall be an amount less than the total number of these vehicles. The type of vehicles involved and the character of the motor pool operation shall determine the ratio of parking spaces to vehicles.

(b) If feasible, areas assigned for Government-owned vehicles may be used during other than early morning or late afternoon hours for visitor and service vehicles or other vehicles as appropriate.

(5) Vehicles of patrons and visitors and service vehicles not accommodated under subparagraph (4)(b) of this subparagraph a. Where required, accommodations will be provided for handicapped visitors.

b. When requested by agencies, the parking spaces not required for "official" parking may be used for EMPLOYEE parking. Under OMB Circular A-118, a monthly fee shall be assessed for all of these parking spaces except where the rate per space is determined to be less than $10 per month or where a specific exemption has been granted by OMB Circular A-118, paragraph 5. In the assignment of employee parking spaces, the following shall be observed:

(1) Handicapped Government employees for whom assigned parking spaces are necessary shall be given priority over all other employee parking. Nonhandicapped drivers who provide transportation for severely handicapped employees shall also be assigned parking spaces. Handicapped employees who utilize a specially equipped vehicle for commuting shall be exempt from parking fees.

(2) Assignments for other privately owned vehicles of employees of occupant agencies not otherwise accommodated shall be made in accordance with the regulations in paragraph 8.

8. *Priorities for employee parking.* Agencies shall encourage the conservation of energy by taking positive action to increase carpooling.

a. *Assignment of spaces.* In meeting their responsibilities to promote carpooling, agencies shall assign employee parking as follows:

(1) Handicapped employees, as indicated in subparagraph 7b(1).

(2) No more than 10 percent of the total spaces available for employee parking at each facility (excluding the spaces assigned to severely handicapped employees) to executive personnel and/or persons who are assigned unusual hours. Executive personnel should make every effort to carpool.

(3) Vanpools.

(4) Carpools based on the number of members.

NOTE: If necessary for operational purposes, an agency may issue on a fee basis a limited number of parking permits to individuals who regularly use their privately owned vehicles for Government business. These are vehicles used 12 or more workdays per month for Government business for which the employee receives reimbursement for mileage and parking fees under Government travel regulations. Monthly certification, such as travel vouchers, may be required to establish this entitlement. All individual drivers are urged to carpool whenever possible.

b. *Parking spaces allocated to agencies.* Under most circumstances (see subparagraph c, below, for an exception), available employee parking will be allocated to each agency in proportion to its share of the total building population. The agency, in turn, shall assign spaces to employees using the number of persons in a vanpool/carpool as the primary priority. For the purpose of allocation of parking spaces for carpools, full credit shall be given to any regular member regardless of where the member is employed, except that at least one member of the carpool must be a fulltime employee of the agency.

c. *Assignment on a zonal basis.* In the Metropolitan Washington, DC, area and in other major metropolitan areas, to achieve more efficient use of space and equality in the availability of parking for all Federal employees, the Regional Administrator, GSA, may have all parking allocations based on a zonal concept rather than on individual sites. In locations where this method is followed, all agencies located in a zone would compete for the available parking in accordance with instructions issued by the Regional Administrator. In establishing this procedure, the Regional Administrator will consult with all affected agencies.

9. *Two-wheeled vehicles.* Subject to the availability of satisfactory and secure space and facilities, agencies shall reserve areas for the parking of bicycles and other two-wheeled vehicles. Bicycles shall be given special consideration, including storage type space in buildings and improved bicycle locking devices where practical and appropriated funds are available. Bicycles shall not be transported on elevators or via stairways or parked in offices. Two-wheeled vehicles are exempt from employee parking charges.

10. *Regular hours.* Agency managers and supervisors shall make every effort to maintain regular arrival and departure times for all employees. Supervisors are reminded of their prerogative, within overall agency policy, to adjust the scheduled duty hours of individual employees to facilitate carpooling and the use of mass transit.

11. *Charges for employee parking.* a. At all facilities where the monthly rate per space is $10 or more, employees shall be charged for the parking they are furnished unless specifically exempt (see subparagraph 7b). For parking spaces under the control of GSA, the charging system will overlay the existing Federal Buildings Fund procedure. That is, GSA will assign blocks of parking spaces, both official and employee, to the agencies and assess the appropriate Standard Level User Charge. The agencies shall make their own individual assignments to their employees consistent with the carpooling requirements. Agencies shall collect the fees at the time the permits are issued to the employees. (See paragraph 12.)

b. On July 1 of each year, GSA will furnish each agency a printout listing the monthly parking charge for the next fiscal year at each GSA-controlled facility where the rate per space exceeds $10. The rates to be charged will be the same as the commercial equivalent value of the spaces determined under the Standard Level User Charge system. Rates for non-GSA-controlled parking may be established by the responsible agency in accordance with 40 U.S.C. 490(k), using generally accepted appraisal techniques. GSA will assist agencies in developing the parking rates for their properties when requested. In this connection, GSA has developed GSA Form 3183, Appraisal of Fair Monthly Parking Rates Per Space, a simplified appraisal from for determining the monthly parking rate. Paragraph 18 provides information and instructions concerning the availability of GSA Form 3183. Rates must be developed by agencies and submitted to the appropriate GSA regional office (attention: Regional Commissioner, PBS) for approval.

c. For the initial period November 1, 1979, through September 30, 1981, the charges to be collected shall be 50 percent of the full rate scheduled to be collected. The full charge shall be collected beginning October 1, 1981.

d. In communities having several Federal facilities, buildings may be grouped or "zoned" for the purpose of establishing a uniform parking rate for the area rather than a building-by-building charge.

12. *Procedures.* a. *GSA-controlled facilities.* (1) In most instances, GSA will make block allocations of parking spaces to agencies, as indicated in subparagraph 8b, for distribution to their employees. GSA periodically will conduct surveys and review parking space allocations of its facilities to determine the total number of parking spaces available and to make sure that each agency has its fair proportion of parking spaces. The spaces will be reallocated if necessary. Agencies must maintain a breakdown of their official and employee parking assignments at each facility so that this information can be provided to GSA upon request.

(2) Agencies will be responsible for the assignments of space to their employees and for ensuring that fees have been collected in a timely manner for each assignment, or that the assignment has been revoked if necessary. The normal method for assigning employees spaces will be through sale of a monthly permit. An alternate method would

be the use of a parking management contract where the operator would be repsonsible for fee collection. Permits must be used to identify those who are authorized to park and only one permit will be issued to a vanpool/carpool. The fee will be collected in advance, and agencies will be required to have available adequate documention (e.g., a log) that will show that the monthly fees have been collected from employees for each permit issued.

b. *Non-GSA-controlled facilities.* At non-GSA-controlled facilites, the agency responsible for each facility will allocate employee parking in accordance with OMB Circular A-118 and issue parking permits to employees assigned such parking.

13. *Collection and deposit of fees.* a. Collection of parking fees by agencies shall be handled in accordance with Title 7, Fiscal Procedures, GAO Policy and Procedure Manual, chapter 3, which provides the regulations and instructions applicable to all classes of funds collected by officers and employees of the U.S. Government.

b. The fees collected shall be deposited in accordance with Volume 1-Part 5, Deposit Regulations, Treasury Fiscal Requirements Manual (TFMR), which prescribes the forms and procedures to be observed by all Government departments, agencies, corporations, and others concerned with respect to deposits for credit to the Account of the U.S. Treasury.

c. In developing procedures for the collection and deposit of employee parking fees, agencies should ensure that their regulations, systems, and procedures comply with the reporting requirements of Volume 1-Part 2, Central Account and Reporting, TFMR, and the cash management policies, Volume 1-Part 6, Chapter 8000, Cash Management, TFMR.

d. Inquiries pertaining to the development and implementation of procedures and regulations pursuant to the TFMR's should be directed to the appropriate Department of the Treasury activity referenced in each TFMR chapter.

14. *Appeals.* Formal appeal of the rates established for employee parking may be filed by agencies in accordance with § 101-21.606(c). For properties not under the control of GSA, an appeal of the parking rate may be made directly by an employee to the employee's agency.

15. *Comments.* Comments concerning this regulation may be submitted to the General Services Administration (PR), Washington, DC 20405, until March 31, 1980.

16. *Effect on other directives.* This temporary regulation supersedes §§ 101-20.111-2, 101-20.111-2a, 101-20.117-1, and 101-20.117-2 of Subchapter D of the Federal Property Management Regulations to bring them into conformance with OMB Circular A-118.

17. *Reports.* The report required by this section has been cleared in accordance with FPMR 101-11.11 and assigned interagency report control number 0225-GSA-AR.

18. *Availability of GSA Form 3183.* Agencies may obtain their initial supply of the appraisal form referred to in subparagraph 11b from General Services Administration (WBRDD), Union and Franklin Streets Annex, Building 11, Alexandria, VA 22314. Agency field offices should submit all future requirements to their Washington headquarters office which will forward consolidated annual requirements to the General Services Administration (HRM), Washington, DC 20405. An initial distribution of the form will be made to all GSA regional offices for their use and additional supplies of the form should be obtained in the usual manner.

Dated: September 6, 1979.

R. G. Freeman III,
Administrator of General Services.

[44 FR 53162, Sept. 13, 1979]

[FPMR No. D—65, Supp. 2]

FEDERAL EMPLOYEE PARKING

1. *Purpose.* This supplement extends the expiration date of FPMR Temporary Regulation D-65.

2. *Effective date.* This regulation is effective January 13, 1981.

3. *Expiration date.* This regulation expires on December 31, 1981.

4. *Explanation of changes.* Pending resolution of legal issues raised as a result of the recent U.S. district court ruling regarding the Federal employee parking program, the expiration date in paragraph 3 of FPMR Temporary Regulation D-65 is extended.

R. G. Freeman III,
Administrator of General Services.

[46 FR 3021, Jan. 13, 1981]

[FPMR No. D—66]

ACCOMMODATIONS FOR THE PHYSICALLY HANDICAPPED

1. *Purpose.* This temporary regulation establishes a new "GSA Accessibility Standard" to provide minimum accessibility standards for the design of Federal buildings and facilities to accommodate the physically handicapped.

2. *Effective date.* This regulation is effective October 14, 1980.

3. *Expiration date.* This regulation expires July 30, 1981.

4. *Background.* Under Pub. L. 90-480, GSA is directed to prescribe such standards as necessary to ensure minimum accessibility for facilities under its jurisdiction. Up to now the standard referenced was the ANSI Standard A117.1-1961(R 1971). With this

amendment, minimum accessibility shall be provided in accordance with a new GSA-authored document, "The GSA Accessibility Standard," which will supersede the currently prescribed ANSI standard.

5. *Effect on other directives.*

a. Section 101-19.603 is revised as follows:

§ 101-19.603 Standards.

Except as provided in § 101-19.604, every building shall be designed, constructed, or altered in accordance with the minimum standards in the "GSA Accessibility Standard" as developed by the General Services Administration, in consultation with the Department of Health, Education, and Welfare. Departures from these standards by use of other methods will be permitted when it is evident that equivalent accessibility and usability of the facility are provided. Except as provided under §§ 101-19.602 and 101-19.604, buildings designed, constructed, or altered before the effective date of this standard shall be in accordance with the minimum standards in the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," published by the American National Standards Institute, Inc. (ANSI A117.1-1961) (R1971). Buildings under design will be subject to the criteria within this standard if the date of bid invitation falls after the effective date of this standard.

b. Section 101-19.604(e) is revised as follows:

§ 101-19.604 Exceptions.

* * * * *

(e) The leasing of space when it is determined that after receipt of bids or offers not otherwise legally acceptable proposal substantially meets the requirements of the "GSA Accessibility Standard." If no offeror or bidder meets the requirements of the standard, then preference shall be given to the offeror or bidder who most nearly complies with the standard prescribed in § 101-19.603. If the award is proposed to a firm other than the one offering space that most nearly complies with the entire "GSA Accessibility Standard" and whose bid or offer is reasonable as to price and is otherwise legally acceptable, a waiver or modification of those standards that could have been met but that are not being furnished must be obtained.

Ray Kline,
Acting Administrator of General Services.

General Services Administration Business Service Centers

Region W

Business Service Center
General Services Administration.
National Capital Region
7th & D Streets, SW
Washington, DC 20407

Region 1

Business Service Center
General Services Administration
John W. McCormack Post Office & Courthouse
Boston, MA 02109

Region 2

Business Service Center
General Services Administration
26 Federal Plaza
New York, NY 10007

Region 3

Business Service Center
General Services Administration
Ninth & Market Streets
Philadelphia, PA 19107

Region 4

Business Service Center
General Services Administration
75 Spring Street, SW
Atlanta, GA 30303

Region 5

Business Service Center
General Services Administration
230 South Dearborn Street
Chicago, IL 60604

Region 6

Business Service Center
General Services Administration
1500 East Bannister Road
Kansas City, MO 64131

Region 7

Areas of: Arkansas; Louisiana; Texas; New Mexico & Oklahoma—contact:
Business Service Center
General Services Administration
819 Taylor Street
Fort Worth, TX 76102
Areas of: Gulf Coast, Brownsville, Texas to New Orleans, Louisiana—Contact:
Business Service Center
General Services Administration
515 Rusk Street
Houston, TX 77002

Region 8

Business Services Center
General Services Administration
Building 42, Denver Federal Center
Denver, CO 80225

Region 9

Areas of: Northern California; Hawaii; Nevada (ex. Clark County)—Contact:

Business Service Center
General Services Administration
525 Market Street
San Francisco, CA 94105

Areas of: Los Angeles; Southern California; Nevada (Clark County); Arizona—Contact:

Business Service Center
General Services Administration
300 North Los Angeles Street
Los Angeles, CA 90012

Region 10

Business Service Center
General Services Administration
440 Federal Building
915 Second Avenue
Seattle, WA 98174

[45 FR 67665, Oct. 14, 1980]

SUBCHAPTER E—SUPPLY AND PROCUREMENT

PART 101-22—101-24 [RESERVED]

PART 101-25—GENERAL

Sec.
101-25.000 Scope of subchapter.
101-25.001 Scope of part.

Subpart 101-25.1—General Policies

101-25.100 Use of Government personal property and nonpersonal services.
101-25.101 Criteria for determining method of supply.
101-25.101-1 General.
101-25.101-2 Supply through storage and issue.
101-25.101-3 Supply through consolidated purchase for direct delivery to use points.
101-25.101-4 Supply through indefinite quantity requirement contracts.
101-25.101-5 Supply through local purchase.
101-25.102 Exchange or sale of personal property for replacement purposes.
101-25.103 Trading stamps and bonus goods.
101-25.104 Acquisition of office furniture and office machines.
101-25.104-1 Redistribution, repair, or rehabilitation.
101-25.105 [Reserved]
101-25.106 Servicing of office machines.
101-25.107 Guidelines for requisitioning and proper use of consumable or low cost items.
101-25.108 Multiyear subscriptions for publications.
101-25.109 Laboratory and research equipment.
101-25.109-1 Identification of idle equipment.
101-25.109-2 Equipment pools.
101-25.110 Tire identification/registration program.
101-25.110-1 [Reserved]
101.25-110-2 Tires obtained through Federal Supply Schedules or regional term contracts.
101-25.110-3 Tires accompanying new motor vehicles.
101-25.110-4 Recordkeeping responsibilities.
101-25.111 Environmental impact policy.
101-25.112 Energy conservation policy.
101-25.113 Leasing of motor vehicles.
101-25.114 Supply management surveys and assistance.

Subpart 101-25.2—Interagency Purchase Assignments

Sec.
101-25.201 General.
101-25.202 Factors to be used to determine assignment of purchase responsibility.
101-25.203 Centralized purchases by GSA.
101-25.204 Centralized purchases by designated executive agencies under authority delegated by the Administrator of General Services.
101-25.205 Arrangement for performance of purchasing functions other than centralized.
101-25.206 Independent purchases by executive agencies.

Subpart 101-25.3—Use Standards

101-25.301 General.
101-25.302 Office furniture, furnishings, and equipment.
101-25.302-1 Executive type office furniture and furnishings.
101-25.302-2 Filing cabinets.
101-25.302-3 Electric typewriters.
101-25.302-4 Figuring machines.
101-25.302-5 Carpeting.
101-25.302-6 Electronic office machines.
101-25.302-7 Draperies.
101-25.302-8 Contemporary steel office furniture.
101-25.303 Gasoline for use in motor vehicles.
101-25.304 Additional systems and equipment for passenger motor vehicles.
101-25.304-1 Selection guidelines.
101-25.304-2 Air-conditioning guidelines.

Subpart 101-25.4—Replacement Standards

101-25.401 General.
101-25.402 Motor vehicles.
101-25.403 Office machines.
101-25.404 Furniture.
101-25.404-1 Limitations.
101-25.405 Materials handling equipment.

Subpart 101-25.5—Guidelines for Making Purchase or Lease Determinations

101-25.500 Scope of subpart.
101-25.501 General.
101-25.501-1 Acquisition considerations.
101-25.501-2 Cost comparison methods.
101-25.501-3 Reviewing application of guidelines.
101-25.502 Methods of acquisition.
101-25.502-1 Purchase method.
101-25.502-2 Lease method.
101-25.503 Telecommunications equipment.

Sec.
101-25.504 Office copying machines.

Subparts 101-25.6—101-25.47 [Reserved]

Subpart 101-25.48—Reports

101-25.4800 Scope of subpart.
101-25.4801 Supply Activity Report.

Subpart 101-25.49—Illustrations of Forms

101-25.4900 Scope of subpart.
101-25.4901 [Reserved]
101-25.4902 GSA forms.
101-25.4902-1473 GSA Form 1473, Supply Activity Report.
101-25.4902-1473-1 Instructions for preparation of GSA Form 1473, Supply Activity Report.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 101-25.000 Scope of subchapter.

This subchapter provides policies and guidelines pertaining to the general area of supply management designed to support the logistical programs of the Federal Government. It consists of Parts 101-25 through 101-34 and provides for applicability of coverage within each of these several parts.

[29 FR 13256, Sept. 24, 1964]

§ 101-25.001 Scope of part.

This part provides policies and guidelines pertaining to subject matter in the general area of supply management which is not appropriate for coverage in other parts of this Subchapter E.

[29 FR 13256, Sept. 24, 1964]

Subpart 101-25.1—General Policies

SOURCE: 29 FR 13256, Sept. 24, 1964, unless otherwise noted.

§ 101-25.100 Use of Government personal property and nonpersonal services.

Except in emergencies, Government personal property and nonpersonal services shall be used only for those purposes for which they were obtained or contracted for or other officially designated purposes. Emergency conditions are those threatening loss of life and property. As used in this section "nonpersonal services" means those contractual services, other than personal and professional services (as defined in 40 U.S.C. 472). This includes property and services on interagency loan as well as property leased by agencies. Agency heads shall ensure that the provisions of this § 101-25.100 are enforced to restrict the use of Government property/services to officially designated activities.

[40 FR 29818, July 16, 1975]

§ 101-25.101 Criteria for determining method of supply.

§ 101-25.101-1 General.

(a) This § 101-25.101 prescribes general criteria governing selection of the appropriate methods of supply to be utilized in meeting the planned requirements of the Government. It is directly applicable to executive agencies, and other Federal agencies are requested to observe these criteria in conducting their supply operations.

(b) As used in this § 101-25.101, the term "use point" means a storeroom or other redistribution point where supplies, materials, or equipment representing more than a 30-day supply are maintained primarily for issue directly to consumers within the local area, as distinguished from storage points where supplies and equipment are issued to redistribution points.

§ 101-25.101-2 Supply through storage and issue.

The following criteria shall govern in determining whether an item can be most advantageously supplied through storage and issue to use points:

(a) The item shall be physically adaptable to storage and issue and of such a character that it is feasible to forecast overall requirements of the use points served with reasonable accuracy;

(b) Rate of use and frequency of ordering at use points shall be sufficient to warrant storage and issue;

(c) The rate of deterioration or obsolescence shall be sufficiently low to avoid unnecessary loss; and

(d) Conditions exist where any of the following factors require supply through storage and issue (except that dangerous commodities of high weight and density, or commodities highly susceptible to damage normally should not be considered for supply through storage and issue unless one or more of such factors are determined to be of overriding importance)—

(1) Where price advantage through bulk buying is sufficient to render storage and issue more economical, all costs, both direct and indirect, considered.

(2) Where close inspection or testing is necessary to secure quality, or where repetitive inspection and test of small lots are prohibitive from the standpoint of cost or potential urgency of need.

(3) Where advance purchase and storage are necessitated by long procurement leadtime.

(4) Where an item is of special manufacture or design and is not readily available from commercial sources.

(5) Where an adequate industry distribution system does not exist to assure availability at use point.

(6) Where volume purchases are necessary to secure timely deliveries and advantageous prices.

(7) Where market conditions are such that supply through storage and issue is required to assure adequate supply.

(8) Where stocking of supplies and equipment necessary for implementation of emergency plans is required for an indefinite period.

§ 101-25.101-3 Supply through consolidated purchase for direct delivery to use points.

The following criteria shall govern in determining whether an item can be most advantageously supplied through consolidated purchase for direct delivery to use points:

(a) The items shall be equipment or supply items of such a character that it is feasible to forecast requirements for delivery to specific use points; and

(b) Conditions exist where any of the following factors requires consolidated purchasing of such items for direct delivery to use points—

(1) Where greatest price advantage, both direct and indirect costs considered, is obtainable through large definite quantity purchasing.

(2) Where an item is of special manufacture or design and is not readily available from commercial sources.

(3) Where market conditions are such that central procurement is required to assure adequate supply.

(4) Where contracts for production quantities are necessary to secure timely deliveries and advantageous prices.

(5) Where the quantity is large enough to assure lowest transportation costs or, conversely, where transportation costs for small quantity redistribution are so excessive that it is not feasible to store and issue the items.

§ 101-25.101-4 Supply through indefinite quantity requirement contracts.

The following criteria shall govern in determining whether an item can be most advantageously supplied through the medium of indefinite quantity requirement contracts covering specific periods and providing for delivery to use points as needs arise:

(a) The item shall be such a character that—

(1) Handling on a storage and issue basis is not economically sound, under the criteria prescribed in § 101-25.101-2;

(2) Rate of use and frequency of ordering at use points is estimated to be sufficient to warrant the making of indefinite quantity requirement contracts;

(3) It is either not feasible to forecast definite requirements for delivery to specific use points (as in the case of new items initially being introduced into a supply system), or no advantage accrues doing so; and

(b) Industry distribution facilities are adequate properly to serve the use points involved; and

(c) Conditions exist where any of the following factors requires the maintaining of indefinite quantity requirements contracts—

(1) Advantage to the Government is greater than would be secured by definite quantity procurements by individual offices or agencies (the determining consideration being one of overall economy to the Government, rather than one of direct comparison of unit

prices of individual items obtainable through other methods of supply); or no known procurement economies would be effected but the requirements of offices of agencies can best be served by indefinite quantity requirements contracts.

(2) Acute competitive bidding problems exist because of highly technical matters which can best be met on a centralized contracting basis.

(3) The item is proprietary or so complex in design, function, or operation as to be noncompetitive and procurement can best be performed on a centralized contracting basis.

§ 101-25.101-5 Supply through local purchase.

The following criteria shall govern in determining whether an item should be supplied through local purchase:

(a) Urgency of need requires local purchase to assure prompt delivery;

(b) The items are perishable or subject to rapid deterioration which will not permit delay incident to shipment from distant points;

(c) The local purchase is within applicable limitation established by the agency head; or

(d) Local purchase will produce the greatest economy to the Government.

§ 101-25.102 Exchange or sale of personal property for replacement purposes.

Policies and methods governing executive agencies in exercising the authority granted under section 201(c) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 481(c)), are prescribed in Part 101-46.

[31 FR 4997, Mar. 26, 1966]

§ 101-25.103 Trading stamps and bonus goods.

Federal agencies in a position to receive trading stamps and bonus goods shall establish internal procedures for the receipt and disposition of such gratuities using the policy set forth in this § 101-25.103 as minimum guidelines. Such procedures shall provide for a minimum of administrative and accounting controls.

(a) When contracts contain a price reduction clause, any method by which the price of a commodity or service is effectively reduced shall constitute a price reduction. Temporary or promotional price reductions are to be made available to contracting officers under the same terms and conditions as to other customers. Procuring activities, however, rather than accept trading stamps and bonus goods, shall deduct the cost of such items from the contract price. If obtaining such a price reduction is not possible, the contracting officer shall document the contract file to that effect and dispose of the items as provided in paragraph (b) of this section.

(b) Agencies shall, through the lowest appropriate activity, arrange for transfer of trading stamps and/or bonus goods, without reimbursement or accountability, to a nearby Federal hospital or similar institution operated, managed, or supervised by the Department of Health, Education, and Welfare (DHEW), Department of Defense (DOD), or the Veterans Administration (VA) when:

(1) The contract does not contain a price reduction clause, or

(2) The contractor refuses to grant a price reduction, and

(3) It is deemed practical and in the best interest of the Government to accept such items as a price reduction, and

(4) The procuring agency has no need for the trading stamps or bonus goods.

Prior to transferring trading stamps and bonus goods to the above institutions it must be ascertained that the proposed recipient is prepared to receive and utilize such items.

[40 FR 23856, June 3, 1975]

§ 101-25.104 Acquisition of office furniture and office machines.

Each executive agency shall make a determination as to whether the requirements of the agency can be met through the utilization of already owned items prior to the acquisition of new furniture or office machines. The acquisition of new items shall be limited to those requirements which are considered absolutely essential and shall not include upgrading to improve appearance, office decor, or status, or to satisfy the desire for the latest design or more expensive lines.

(a) Generally acquisition of additional furniture or office machines from any source will be authorized only under the following circumstances, limited to the least expensive lines which will meet the requirement (see § 101-26.408 of this chapter with respect to items such as typewriters under Federal Supply Schedule contracts), and the justification for the action shall be fully documented in the agency file:

(1) For essential requirements arising from quantitative increases in onboard employment which constitute the total requirement of any agency or major component thereof (e.g. bureau, service, office).

(2) For essential requirements arising from a need not related to onboard employment increases but which are determined necessary to avoid impairment of program efficiency.

(b) Each agency shall restrict replacement of furniture or office machines either to usable excess, rehabilitated, or the least expensive new lines available which will meet the requirement under the following circumstances, authority for which will meet the requirement under the following circumstances, authority for which shall be fully documented in the agency file:

(1) Where the agency determines that the item is not economically repairable.

(2) Where reductions in office space occupancy are accomplished through use of more convenient or smaller size furniture and the space economies thus achieved offset the cost of the furniture to be acquired.

[30 FR 5479, Apr. 16, 1965, as amended at 42 FR 1031, Jan. 5, 1977]

§ 101-25.104-1 Redistribution, repair, or rehabilitation.

Prior to the purchase of new office furniture and office machines, agencies shall fulfill needs insofar as practicable through redistribution, repair, or rehabilitation of already owned furniture and office machines. In furtherance of the use of rehabilitated furniture and office machines, agencies shall review inventories on a continuing basis to ascertain those items which can be economically rehabilitated and institute programs for their orderly repair and rehabilitation. All such items which are not required for immediate needs shall be reported as excess.

[42 FR 1031, Jan. 5, 1977]

§ 101-25.105 [Reserved]

§ 101-25.106 Servicing of office machines.

(a) The determination as to whether office machines are to be serviced by use of annual maintenance contracts or per-call arrangements shall be made in each case after comparison of the relative cost affecting specific types of equipment in a particular location and consideration of the factors set forth in paragraph (b) of this section.

(b) Prior to making the determination required by paragraph (a) of this section, consideration shall be given to:

(1) Standard of performance required;

(2) Degree of reliability needed;

(3) Environmental factors; i.e., dusty surroundings or other unfavorable conditions;

(4) Proximity to available repair facilities;

(5) Past experience with service facility; i.e., reputation, performance record, quality of work, etc.;

(6) Daily use (heavy or light) and operator's care of machine;

(7) Age and performance record of machine;

(8) Machine inventory in relation to operating needs; i.e., availability of reserve machine in case of breakdown;

(9) Number of machines; including overall frequency of repairs required;

(10) Security restrictions, if any; and

(11) Other pertinent factors.

[31 FR 14260, Nov. 4, 1966]

§ 101-25.107 Guidelines for requisitioning and proper use of consumable or low cost items.

Consumable and low value items in inventory (cupboard stocks are not considered inventory) are subject to accounting and inventory record controls in accordance with applicable provisions of law and the principles and standards prescribed by the General Accounting Office, 2 GAO 12.5. Normally, however, the systems of control for such property cease at the time of issuance from a warehouse or storeroom to the consumer.

(a) The guidelines set forth in this § 101-25.107 are considered minimum to assure proper use of consumable or low cost items by individuals, subsequent to issue from accountable records and termination of formal accountability. Consumable items, for the purpose of this section, are considered to include those items actually consumed in use (e.g., pads and pencils) and those items required in performance of duties but for which, primarily by reason of the low value involved, no formal accountability is maintained after issue, and are generally referred to as "expendable."

(b) Approval of requisitions for replenishment of cupboard storeroom stocks should be restricted to officials at a responsible supervisory level to insure that supply requirements are justified on the basis of essentiality and quantity. Where requisitions are not required, such as in procuring items from GSA self-service stores, informal "shopping lists" should be approved at the same level.

(c) Adequate safeguards and controls should be established to assure that issues of expendable supplies are made for official use only. In appropriate situations, this will include identification of individuals to whom expendable supplies have been issued. Experience has indicated, also, that certain items of expendables should not be displayed either at seasonal periods of the year or on a permanent basis.

(d) The items listed below have from experience proven to be personally attractive and particularly susceptible to being used for other than official duties. Agencies should give special attention to these and any other consumable or low cost items when issues are excessive when compared with normal program needs.

Attache cases, Ball point pens and refills, Brief cases, Binders, Carbon paper, Dictionaries, Felt tip markers, Felt tip pens and refills, File folders, Letterex, Letter openers, Pads (paper), Paper clips, Pencils, Pencil sharpeners, Portfolios (leather, plastic, and writing pads), Rubber bands, Rulers, Scissors, Spray paint and lacquer, Staplers, Staples, Staple removers, Tape dispensers, Transparent tape, Typewriter ribbons.

[32 FR 4413, Mar. 23, 1967, as amended at 42 FR 1031, Jan. 5, 1977]

§ 101-25.108 Multiyear subscriptions for publications.

Subscriptions for periodicals, newspapers, and other publications for which it is known in advance that a continuing requirement exists should be for multiple years rather than for a single year where such method is advantageous for the purpose of economy or otherwise. Where various bureaus or offices in the same agency are subscribing to the same publication, consideration shall be given to consolidating these requirements, to the extent practical, on an agency-wide basis and on a multiyear basis. Payment covering issues to be delivered during the entire subscription period may be made in advance from currently available appropriations (31 U.S.C. 530a).

[33 FR 17140, Nov. 19, 1968]

§ 101-25.109 Laboratory and research equipment.

(a) This section prescribes controls for use by Federal agencies in managing laboratory and research equipment in Federal laboratories. Agencies may establish such additional controls as are appropriate to increase the use of already-owned equipment instead of procuring similar equipment.

(b) The term "Federal laboratory," as used in this section, means any laboratory or laboratory facility in any Government-owned or -leased building which is equipped and/or used for scientific research, testing, or analysis, except clinical laboratories operating in direct support of Federal health care programs. To the extent practicable, agencies should observe the provisions of this section with regard to commercial laboratories and laboratory facilities which operate under contract with the Government and use Government-furnished equipment.

[43 FR 29004, July 5, 1978]

§ 101-25.109-1 Identification of idle equipment.

(a) The provisions of this § 101-25.109-1 apply to all Federal laboratories regardless of size.

(b) Inspection tours of Federal laboratories shall be conducted on a scheduled basis, annually, if feasible, but no less than every 2 years, for the purpose of identifying idle and unneeded laboratory and research equipment. Following each tour, a report of findings shall be prepared by the inspection team and, as determined by the agency head or his designee, submitted to the head of the laboratory or to a higher agency official having laboratories management responsibility. Equipment identified by the inspection team as idle or unneeded shall be reassigned as needed within the laboratory, placed in an equipment pool, or declared excess and made available to other agencies in accordance with Part 101-43.

(c) Laboratory inspection teams shall be comprised of senior program management, property management, and scientific personnel who are familiar with the plans and programs of the laboratory(ies) and who have a knowledge of laboratory and research equipment utilization. As determined by the agency head or his designee, members of an inspection team shall be appointed by either the head of the laboratory or a higher agency official having laboratories management responsibility.

(d) The agency head or his designee shall ensure compliance by responsible personnel with the requirements of this § 101-25.109-1 and shall require that periodic independent reviews of walk-through procedures employed in Federal laboratories under his control be conducted to determine their effectiveness and to effect modifications as appropriate.

[43 FR 29004, July 5, 1978]

§ 101-25.109-2 Equipment pools.

(a) The provisions of this § 101-25.109-2 apply to Federal laboratories which occupy an area of 10,000 square feet or more and employ 25 or more technical or scientific personnel.

(b) Equipment pools shall be established in Federal laboratories so that laboratory and research equipment can be shared or allocated on a temporary basis to laboratory activities and individuals whose average use does not warrant the assignment of the equipment on a permanent basis. In determining the number and location of equipment pools, consideration shall be given to economy of operation, mobility of equipment, accessibility to users, frequency of use of the equipment, and impact on research programs. Pooling operations should begin expeditiously, within 120 days, if feasible, following decisions regarding the number and location of pools. If it is determined that an equipment pool would not be practical or economical or for any other reason is not needed at a particular laboratory, a written report supporting that determination shall be submitted to the agency head or his designee. Federal laboratories which do not meet the size and staffing criteria in § 101-25.109-2(a) should also establish equipment pools whenever feasible; however, these facilities need not submit written reports regarding determinations not to establish pools.

(c) Where the establishment of a physical pool would be economically unfeasible due to excessive transportation and handling costs, limited personnel resources, or limited space, pooling may be accomplished by means of equipment listings. Consideration should be given to the establishment of a laboratory advisory committee consisting of technical and management personnel to determine the types of equipment to be shared or pooled and to identify equipment that is no longer required.

(1) Equipment pools may also be used to fill requests for temporary replacements while permanently assigned equipment is being repaired or to provide equipment for new laboratories pending acquisition of permanent equipment.

(2) Although specific pieces of laboratory equipment may not be available for assignment to equipment pools, they may be available for sharing or loan. Information concerning the availability of this equipment can be

maintained at a central location such as the equipment pools.

(d) Unless determined unnecessary by the agency head or his designee, each Federal laboratory operating equipment pools shall prepare and submit to the agency head or his designee an annual report concerning the use and effectiveness of equipment pooling.

(e) The agency head or his designee shall ensure compliance by responsible personnel with the provisions of this § 101-25.109-2 and shall require that periodic independent reviews of equipment pool operations in Federal laboratories under his control be conducted to determine their effectiveness and to effect modifications as appropriate.

[43 FR 29004, July 5, 1978]

§ 101-25.110 Tire identification/registration program.

The regulations issued by the Department of Transportation in 49 CFR Part 574, tire identification and recordkeeping, require, in part, that tire manufacturers and retreaders maintain or have maintained for them the name and address of tire purchasers, the identification number of each tire sold, and the name and address of the tire seller (or other means by which the manufacturer can identify the tire seller). In addition, distributors and dealers are required to furnish such data to manufacturers in connection with purchases made directly from them. GSA provides support to the Federal Government for tires, and, in consequence, the following procedures apply with respect to tires purchased or retreaded from or through GSA supply sources.

[37 FR 5028, Mar. 9, 1972]

§ 101-25.110-1 [Reserved]

§ 101-25.110-2 Tires obtained through Federal Supply Schedules or regional term contracts.

When tire manufacturers or retreaders ship tires direct against orders placed under Federal Supply Schedules or regional term contracts, the tire manufacturer or the prime contractor for the retreading contract will record the name and address of the purchaser of the tires and the identification numbers of the tires involved. If a subcontractor retreads tires for a prime contract retreader, the identification of the subcontractor will be used in the event of a tire recall.

[37 FR 5029, Mar. 9, 1972]

§ 101-25.110-3 Tires accompanying new motor vehicles.

The tire identifications and recordkeeping regulations issued by the Department of Transportation require each motor vehicle manufacturer or his designee to maintain a record of tires on or in each vehicle shipped by him together with the name and address of the first purchaser.

[37 FR 7794, Apr. 20, 1972]

§ 101-25.110-4 Recordkeeping responsibilities.

The effectiveness of the tire identification and recordkeeping regulations depends on the active support and cooperation of all agencies to insure that tires subject to a recall program are not to continue in service thereby endangering the lives of the occupants of the vehicle. Therefore, agencies should establish procedures for promptly identifying and locating all tires whether in storage or on vehicles so that advice from GSA, the tire manufacturer, the prime contractor for the retreading contract, or the vehicle manufacturer may be acted upon expeditiously.

[37 FR 5029, Mar. 9, 1972]

§ 101-25.111 Environmental impact policy.

(a) From time to time, Congress enacts legislation pertaining to the protection and enhancement of the Nation's environment; e.g., the National Environmental Policy Act of 1969 (42 U.S.C. 4321). The objective of such legislation is, among other things, the improvement of the relationship between people and their environment and the lessening of hazards affecting their health and safety. It is the policy of the General Services Administration to appropriately implement the various provisions of these Acts of

Congress as fully as statutory authority permits in support of the national policy.

(b) With respect to the procurement, management, and disposal of personal property, the implementation of national environmental policy is provided through amendments to the regulations of GSA, changes to Federal specifications and standards documents, as appropriate, and other actions as may be required when expediency is of prime importance. Further, the Federal regulatory agencies have imposed restrictions applicable to the procurement, use, and disposal of items supplied through the Federal supply system that are known to contain components or possess qualities that have an adverse impact on the environment or that result in creating unsafe or unhealthy working conditions. Each agency, therefore, shall take action as necessary to ensure that the objectives and directives of the National Environmental Policy Act, other environmental statutes, and applicable regulations are met; especially the directive that environmental concerns, effects, and values shall be given appropriate consideration with economic and technical issues in decisionmaking. Action should include a continuing review of the FEDERAL REGISTER and issuances promulgated by the Federal regulatory agencies for guidance applicable to the procurement, use, and disposal of items that are known to contain components or to possess qualities that have an adverse impact on the environment or that result in creating unsafe or unhealthy working conditions.

[39 FR 24505, July 3, 1974]

§ 101-25.112 Energy conservation policy.

(a) Agency officials responsible for procurement, management, and disposal of personal property and nonpersonal services shall ensure that pertinent procurement and property management documents reflect the policy set forth in paragraph (b) of this section, which has been established pursuant to Pub. L. 94-163, Energy Policy and Conservation Act.

(b) With respect to the procurement or lease of personal property or nonpersonal services, which in operation consume energy or contribute to the conservation of energy, executive agencies shall promote energy conservation and energy efficiency by being responsive to the energy efficiency and/or conservation standards or goals prescribed by the U.S. Government.

[43 FR 8800, Mar. 3, 1978]

§ 101-25.113 Leasing of motor vehicles.

Agencies having new requirements for leased motor vehicles exceeding the maximum order limitation of Federal Supply Schedule, Industrial Group 751—Motor Vehicle Rental Without Driver, shall submit such requirements to GSA pursuant to § 101-39.601(a) for a determination of whether Interagency Motor Pool System vehicles are available.

[39 FR 37379, Oct. 21, 1974]

§ 101-25.114 Supply management surveys and assistance.

Under the provisions of 40 U.S.C. 487, the General Services Administration will perform surveys and/or reviews of Government property and property management practices of executive agencies. These surveys or reviews will be conducted by the Federal Supply Service in connection with regular surveys and studies of agency supply management practices or when providing assistance in the development of agency property accounting systems. Written reports of findings and recommendations will be provided to agency heads.

[45 FR 41947, June 23, 1980]

Subpart 101-25.2—Interagency Purchase Assignments

SOURCE: 29 FR 15991, Dec. 1, 1964, unless otherwise noted.

§ 101-25.201 General.

(a) This subpart prescribes the basic policy for interagency purchase assignments within the executive branch of the Government. It is directly applicable to executive agencies and concerns other Federal agencies in their purchasing from, through, or under contracts made by executive agencies.

(b) The term "purchase assignment" as used in this subpart shall normally be considered to include performance of the following functions:

(1) Arranging with requiring agencies for phased submission of requirements and procurement requisitions.

(2) Soliciting and analyzing bids and negotiating, awarding, and executing contracts.

(3) General contract administration.

(4) Arranging for inspection and delivery.

(5) Promotion of a maximum practicable degree of standardization in specifications and establishment of Federal Specifications, when possible, in accordance with applicable regulations.

(c) Notice of purchase assignments and applicable delegations of authority, made under the provisions of this Subpart 101-25.2, shall be furnished to the General Accounting Office by GSA.

§ 101-25.202 Factors to be used to determine assignment of purchase responsibility.

With their consent or upon direction of the President, executive agencies will be designated and authorized by the Administrator of General Services exclusively, or with specified limited exceptions, to make purchases and contracts on a continuing basis for items or item groups of articles and services for the executive branch of the Government, after due consideration of the following factors, weighted as appropriate:

(a) Current or potential predominant use or consumption by a given agency.

(b) Availability of funds to carry out the assignment on a Government-wide basis or with limited exceptions.

(c) Specialized personnel, or the nucleus of such personnel, regularly employed by the agency, such as scientific, research, and operating technicians, especially qualified or experienced in specification writing, buying, inspecting, testing, using, installing, or operating a particular item or group of items.

(d) Custodianship and operation of special facilities such as research and testing laboratories and inspection or testing stations and devices.

(e) Actual or potential qualifications and experience of agency purchasing and contracting officials and their operating units with due regard to adequacy of staff.

(f) Past experience of the agency in performing services to other agencies on an informal or joint cooperative basis.

(g) Relations of the agency with the industry involved.

(h) Physical proximity of the agency purchasing office or offices to the requirement-compiling elements of the principal using agencies.

(i) Physical location of the agency purchasing office or offices in relation to market areas.

(j) Physical proximity of the agency purchasing offices in relation to engineering or design offices, in the interest of speed in processing modifications in design and specifications, and also reviewing bids for specifications compliance.

(k) Relative interest of agency heads in receiving the purchase assignment and specific requests of agency heads to do the buying of a given item or group of items on a Government-wide basis.

§ 101-25.203 Centralized purchases by GSA.

GSA will exclusively, or with specified limited exceptions, make purchases and contracts on a continuing basis for articles and services for the executive branch of the Government in the interest of lower prices, improved quality, and service or standardization when:

(a) The item or item groups of articles and services are items of "common-use" which are defined as items of standard commercial production or items covered by Federal Specifications commonly used by both civilian and military activities, or by two or more civilian activities, and not requiring such substantial alterations to adapt them to military or other particular application as to render inclusion in a centralized purchasing program impracticable; or

(b) A number of agencies, representing the majority users according to dollar volume, request GSA to make purchases and contracts exclusively for a given item or item groups of articles and services even though not "common-use" items as defined in § 101-25.203(a); and

(c) GSA is best equipped to do the buying based upon the factors listed in § 101-25.202, or must of necessity act as the central purchasing office when other agencies more appropriately suited to make central purchases do not do so and are not so directed by the President; and

(d) The head of another executive agency has not been delegated authority by the Administrator of General Services exclusively, or with specified limited exceptions, to make purchases and contracts for prescribed items or item groups of articles and services for the executive branch of the Government in accordance with §§ 101-25.202 and 101-25.204.

(e) GSA has issued appropriate regulations, or a Federal Supply Schedule, specifically designating the item or item groups of articles or services that fall within paragraphs (a), (b), and (c) of this § 101-25.203 that are thereafter to be purchased exclusively for all executive agencies, or with specified limited exceptions, by GSA.

§ 101-25.204 Centralized purchases by designated executive agencies under authority delegated by the Administrator of General Services.

Designated executive agencies will exclusively, or with specified limited exceptions, make purchases and contracts on a continuing basis for items or item groups of articles and services for the executive branch of the Government in the interest of lower prices, improved quality, and service or standardization when:

(a) The Administrator of General Services has determined, based upon the factors listed in § 101-25.202, that a selected executive agency is best equipped to perform certain purchasing and contracting functions, and the Administrator of General Services has issued appropriate regulations designating the categories of articles or services complying with paragraphs (a), (b), and (c) of § 101-25.203 that are to be purchased exclusively by the named executive agency under authority delegated by the Administrator of General Services; and

(b) The head of the designated executive agency has issued appropriate instructions, or a Federal Supply Schedule, under authority as delegated by and in the form approved by the Administrator, specifically designating the item or item groups of articles or services that are thereafter to be purchased exclusively for all executive agencies, or with specified limited exceptions, by the designated executive agency.

§ 101-25.205 Arrangement for performance of purchasing functions other than centralized.

(a) Upon request, GSA will make purchases and contracts for any of the items or item groups of articles or services authorized to be purchased independently by executive agencies. GSA will also arrange, on a basis mutually agreeable, with any executive agency to perform its purchase and contracting functions on a continuing basis, if requested in writing to do so by the agency head, provided the arrangements agreed upon will result in lowered cost or improved service either to the individual agency or to the Government as a whole.

(b) In those instances where lowered cost or improved service, either to an individual agency or to the Government as a whole will result, GSA will arrange, on a basis mutually agreeable to the agencies involved, to assign all or a portion of the purchase and contracting functions of one executive agency to another executive agency on a continuing basis.

§ 101-25.206 Independent purchases by executive agencies.

Items or groups of items of articles or services may be purchased independently by executive agencies, in accordance with regulations of GSA otherwise applicable, when:

(a) Not otherwise prescribed in current regulations, or included in mandatory Federal Supply Schedules, issued by GSA or by another executive agency designated by the Administrator of General Services.

(b) For emergency requirements when time does not permit purchasing through the authorized central purchasing agency. A record shall be maintained of such transactions and be made available to the responsible central purchasing agency upon request.

(c) By consultation between GSA and agencies concerned, it is determined that interagency purchase assignment would adversely affect the national security or military operations.

(d) The purchases cannot be publicly disclosed in the interest of national security.

Subpart 101-25.3—Use Standards

SOURCE: 29 FR 15993, Dec. 1, 1964, unless otherwise noted.

NOTE: The provisions of this subpart do not apply to automatic data processing equipment and related equipment which are governed by the procedures prescribed in Part 101-32.[1]

§ 101-25.301 General.

(a) This subpart prescribes minimum use standards for certain Government-owned personal property which shall be applied by all executive agencies. Additional criteria above these minimum standards should be established by each executive agency, limiting its property to the minimum requirements necessary for the efficient functioning of the particular office concerned.

(b) Additional use standards should be established by all executive agencies for other Government-owned property under their control whenever use standards will effect economy and efficiency in the use of such property.

(c) All items of property, determined to be excess to the needs of an agency as a result of the application of use standards, shall be promptly reported in accordance with Part 101-43.

§ 101-25.302 Office furniture, furnishings, and equipment.

(a) Each executive agency shall establish criteria for the use of office furniture, furnishings, and equipment. Such criteria shall be in consonance with the provisions of § 101-25.104 pertaining to office furniture and office machines and shall be limited to the minimum essential requirements as established by the agency head for authorized functions and programs which will, beyond a reasonable doubt, be in operation within the following 6 months.

(b) In developing such criteria, a distinction shall be made between the requirements of organizational elements concerned with purely administrative functions, and those of a technical, scientific, or specialized nature.

(c) Items of office equipment, used only occasionally, should be pooled within an agency and made available to activities of the agency when and as necessary.

[29 FR 15993, Dec. 1, 1964, as amended at 42 FR 1031, Jan. 5, 1977]

§ 101-25.302-1 Executive type office furniture and furnishings.

(a) The use of executive type wood office furniture, whether new or rehabilitated, shall be limited to personnel in grade GS-15 and above (or the equivalent, including military rank) except as provided for in paragraph (b) of this section. Executive type wood office furniture consists of the unitized, traditional, and modern items of executive wood office furniture listed in the GSA Furniture Catalog. Furnishings matching executive type office furniture are subject to the same grade limitations as executive type office furniture except that carpeting may be supplied for use of other personnel when it is determined to be justified in accordance with the provisions of § 101-25.302-5.

(b) When it has been determined that personnel are entitled to executive type office furniture on the basis of the standards in paragraph (a) of this section, the agency head or designee of the agency head may permit similar or matching office furniture to be assigned to secretaries and staff assistants whose duties are in direct support of these personnel.

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[1] Part 101-32 now appears as Part 101-36.

(c) When executive type office furniture is to be assigned on the basis of paragraph (a) or (b) of this section, procurement of new furniture may be made only if the required furniture cannot be obtained:

(1) From agency-owned unassigned inventory, furniture "pools," or stocks, or

(2) By reassigning furniture that is being used by persons not entitled to it, provided that substantial costs will not be incurred for packing, packaging, shipping, rehabilitating, and other related services.

[42 FR 36458, July 15, 1977, as amended at 43 FR 18673, May 2, 1978]

§ 101-25.302-2 Filing cabinets.

Executive agencies shall make every effort to effect maximum use of filing cabinets and to limit the purchase of new equipment. Filing cabinets should be replaced only in accordance with the standards in Subpart 101-25.4. Maximum utilization of equipment should be obtained by:

(a) Disposing of all records that have been authorized for disposition by the Congress or, where such authorization has not been obtained, through the preparation and obtaining of authorized disposal schedules with the assistance of the National Archives and Records Service of GSA.

(b) Removing office supplies, publications, and other nonrecord material from filing cabinets to more suitable storage equipment, except where the quantity of such material is small (as a rule, less than half a cabinet).

(c) Transferring to Federal Records Centers or approved agency records centers (to the extent that facilities are made available) inactive records not needed in daily business but not yet ready for disposal, when filing equipment can be released by such action.

(d) Shifting less active files, not transferable to approved records centers, to wood cabinets or transfer cases when available, using steel filing cabinets only when files are constantly used.

(e) Using filing cabinets with locks only when required by special needs that cannot be satisfied less expensively.

(f) Using letter-size filing cabinets instead of legal-size whenever possible.

(g) Using 5-drawer filing cabinets whenever available in lieu of 4-drawer cabinets.

§ 101-25.302-3 Electric typewriters.

(a) Each executive agency shall establish definitive policies, procedures, and standards for the acquisition and use of electric typewriters in consonance with the requirement to provide each typing station with the lowest cost electric typewriter that will meet minimum needs. Procurement of all electric typewriters shall be in accordance with the provisions of §§ 101-26.408-2 through 101-26.408-4 concerning acquisition of the lowest delivered price item from multiple-award Federal Supply Schedule contracts. Typewriters with specialized, elaborate, or sophisticated features shall be acquired only if they are the lowest priced available typewriters with or without those features, or if those features are indispensable to perform the required work. Approval for acquiring typewriters in the latter category shall be granted only as provided in paragraph (b) of this section.

(b) When establishing standards for determining the typewriter to be acquired, the following criteria shall be used:

(1) Generally, the acquisition of typewriters shall be limited to standard-type-bar, single-pitch machines or single-element machines. Agencies should establish minimum daily usage factors for acquisition of each special feature exceeding this description.

(2) Acquisition of typewriters with special features required for unique functions shall be justified in writing by the head of the agency or an authorized representative of the head of the agency, and that justification shall be made a part of the purchase file. Special features on typewriters include but are not limited to the following:

(i) Decimal tab keys or statistical keyboard;

(ii) Multiple-pitch capability; and

(iii) Proportional spacing.

(3) The acquisition of typewriters must reflect the work requirements of the office. For example, if 20 percent of the typing workload requires the use of typewriters with multiple pitch, then 100 percent of the typewriters need not have that particular feature.

(4) Typewriters with self-correcting features should not be considered economical unless a high percentage of the work necessitates first-time original copies.

(5) Whenever practicable, typewriters with specialized features should be pooled within an activity and made available if the features are used only occasionally.

(6) Typewriters with internal memory that do not record on movable magnetic media shall be acquired under the provisions of Subpart 101-11.9.

[44 FR 7955, Feb. 8, 1979]

§ 101-25.302-4 Figuring machines.

Standards for the use of figuring machines shall be established by each agency in consonance with the minimum standards prescribed in this § 101-25.302-4. Figuring machines include adding machines and calculators, manually or electrically operated, listing or nonlisting (excluding the electronic type), but do not include posting or accounting machines.

(a) When the need for a machine has been determined, the following standards shall be used in determining the type of machine to be acquired:

(1) Manual machines should be used where electric current is not conveniently available or portability is required, where reasonable protection is desired against emergency shutdown (for example, in the event of continued power failures or civil defense dispersal), or where limited requirement does not warrant electric machines. Electric machines should be used in all other instances.

(2) Listing machines should be used where it is definitely determined that a printed result is necessary to the operation.

(3) Figuring machines shall be used if the operation to be performed contains a volume of work which is impractical to accomplish by the use of slide rules or computation tables.

(b) Features required in a machine for a particular operation should be determined in advance and makes and models of machines having such features should be evaluated carefully with a view to the selection of the machine which will result in the lowest overall cost to the Government.

[29 FR 15993, Dec. 1, 1964, as amended at 39 FR 26648, July 22, 1974]

§ 101-25.302-5 Carpeting.

(a) Carpeting is authorized for use where it can be justified over other types of floor covering on the basis of cost, safety, insulation, acoustical control, the degree of interior decoration required, or the need to maintain an environment commensurate with the purpose for which the space is allocated, as when executive or unitized office furniture is authorized under § 101-25.302-1.

(b) In connection with new construction or alteration of space, if it is known that the area will eventually require carpeting, then resilient floor covering should be omitted and the carpeting installed initially.

[43 FR 18673, May 2, 1978]

§ 101-25.302-6 Electronic office machines.

Standards for the use of electronic office machines shall be established by each agency in consonance with the minimum standards prescribed by this § 101-25.302-6. Electronic office machines are those machines having electronic components as opposed to manually or electrically operated machines. Electronic office machines include calculators (programable and nonprogramable, portable and desk top, printing, display, and combination print/display types); accounting machines (electronic programable, nonwriting (numeric), and writing (alphanumeric)); and cash registers (electronic terminals).

(a) Battery operated machines shall be used if electric current is not conveniently available or portability is required, if reasonable protection is desired against emergency shutdown (e.g., continued power failure or civil defense dispersal), or where limited use does not warrant electric machines.

(b) Electronic listing machines (adding machines and calculators) shall be used if it is determined that printed results are necessary to the operation.

(c) Electronic calculators shall be used if the accuracy or complexity of computations is impractical to accomplish in an expeditious manner by means of slide rules, computation tables, and figuring machines. (See § 101-25.302-4.)

[39 FR 26648, July 22, 1974]

§ 101-25.302-7 Draperies.

Draperies are authorized for use where justified over other types of window coverings on the basis of cost, insulation, acoustical control, or maintenance of an environment commensurate with the purpose for which the space is allocated, as when executive or unitized office furniture is authorized in § 101-25.302-1. Determining whether the use of draperies is justified is a responsibility of the agency occupying the building or space involved after consultation with the agency operating or managing the building. Authorized draperies shall be of noncombustible or flame-retardant material, as required in § 101-20.109-7.

[42 FR 1031, Jan. 5, 1977]

§ 101-25.302-8 Contemporary steel office furniture.

The contemporary concept of office design emphasizes open planning through the use of freestanding screens in lieu of fixed partitions, a less formalized alignment of furniture, and increased attention to coordinated color schemes. The furniture associated with this concept is of steel construction, and the related curvilinear and other movable partitions are made of noncombustible material meeting the requirements established for movable partitions in § 101-20.109-9. These features contribute to overall fire safety. Personnel at all grade levels are authorized to use the furniture associated with this concept.

(a) The furniture that is available in connection with this concept and stocked by GSA includes desks, chairs, tables, credenzas, and bookcases and is available in two colors: Black and parchment. The tops of the desks, tables, and other items are of walnut textured laminated plastic. The chairs are upholstered with matching or accenting color fabrics.

(b) The use of carpeting and draperies shall conform with the provisions of §§ 101-25.302-5 and 101-25.302-7.

(c) The procurement of filing cabinets shall conform with the provisions of §§ 101-25.302-2 and 101-26.308.

[42 FR 36458, July 15, 1977]

§ 101-25.303 Gasoline for use in motor vehicles.

Pursuant to the regulations of the Environmental Protection Agency (EPA), codified in 40 CFR Part 80, unleaded (0.05 gm./gal.) gasoline shall be used in 1975 or later model year Government-operated motor vehicles designed to operate on such fuel (passenger carrying vehicles and trucks up to and including 6000 lbs. GVWR) within the 50 States. For 1974 or earlier model year Government-operated motor vehicles within the 50 States, unleaded or low-lead content (0.5 gm./gal.) gasoline shall be used unless it is clearly impractical or unfeasible to do so.

(a) Government-operated motor vehicles used overseas shall be fueled in accordance with this § 101-25.303 unless (1) such use would be in conflict with country-to-country or multinational logistics agreements or (2) such gasolines are not available locally.

(b) The cost of gasoline shall not be used as a factor in determining the feasibility of using unleaded or low-lead content gasoline in 1974 or earlier model year Government-operated motor vehicles; however, manufacturers' recommendations for octane requirements and minimum lead content shall be generally followed.

[39 FR 44454, Dec. 24, 1974]

§ 101-25.304 Additional systems and equipment for passenger motor vehicles.

In accordance with the provisions of § 101-26.501, passenger motor vehicles may be procured with additional systems and equipment as listed in Federal Standard No. 122 (i.e., the latest edition or any interim standard being used temporarily as a replacement); and applicable additional systems and equipment so indicated in the standard may be procured for Government owned or operated passenger motor vehicles, provided the guidelines contained in this § 101-25.304 are met. With respect to procurement of additional systems and equipment for Government owned or operated passenger motor vehicles, a determination shall be made that vehicles for which additional systems and equipment are to be procured have at least 2 years expected remaining serviceable life and have been driven less than 40,000 miles. If the guidelines cannot be met or the required item is not shown in the standard and the agency considers the item to be essential, a justification shall be submitted to the Commissioner, Federal Supply Service, General Services Administration, Washington, D.C. 20406, for approval, prior to procurement.

[36 FR 20876, Oct. 30, 1971]

§ 101-25.304-1 Selection guidelines.

The procurement shall be based on the need to provide for overall economy, efficiency, safety, and suitability of the vehicle with the additional items, and in consideration of the:

(a) Climatic conditions prevailing in the area of vehicle operation.

(b) Effect on vehicle operational capability.

(c) Special terrain requirements.

(d) Availability of maintenance and service facilities.

[36 FR 20876, Oct. 30, 1971]

§ 101-25.304-2 Air-conditioning guidelines.

When the guidelines in § 101-25.304-1 have been met and the vehicle involved will operate principally in the geographic areas shown in the shaded portion of the map illustrated in Federal Standard No. 122, air-conditioning may be procured without further justification: *Provided,* That the head of the agency or his designee has determined that air-conditioning equipment is required in consideration of safety, efficiency, and economy.

(a) When the vehicle involved will operate in areas other than those in the shaded area on the map or outside of the United States, justification for air-conditioning would be adequate if the vehicle will operate principally in areas in which either of the following criteria can be met:

(1) Maintenance of at least a 700-cooling-degree day in the four hottest months (cooling-degree days are calculated by subtracting the base value of 65° F. from the daily average temperature (average of the daily high and low recorded temperatures), with negative values being counted as zero, and summing the daily values for the 4 months); or

(2) Accumulation during the four hottest months of 30 days or more each with a recorded high temperature of at least 85° F.

(b) When air-conditioning is considered to be essential and the guidelines cannot be met, the agency shall request approval by submitting a justification to the Commissioner, Federal Supply Service (mailing address: General Services Administration (F), Washington, D.C. 20406), pursuant to § 101-25.304.

[43 FR 16480, Apr. 19, 1978]

Subpart 101-25.4—Replacement Standards

§ 101-25.401 General.

This subpart prescribes minimum replacement standards to be used by executive agencies desiring to replace specified types of items indicated in this subpart. Executive agencies shall retain items which are in usable workable condition even though the standard permits replacement, provided the item can continue to be used or operated without excessive maintenance cost or substantial reduction in trade-in value.

[29 FR 15994, Dec. 1, 1964]

§ 101-25.402 Motor vehicles.

Replacement of motor vehicles shall be in accordance with the standards prescribed in Subpart 101-38.9.

[42 FR 1031, Jan. 5, 1977]

§ 101-25.403 Office machines.

Replacement of office machines shall be in accordance with the standards prescribed in paragraphs (a), (b), and (c) of this section. The acquisition cost of comparable machines may be obtained from applicable Federal Supply Schedules with due consideration given to prices obtainable when the quantities involved exceed the maximum order limitation. In such instances, price information, unless available within the agency, may be obtained from the contracting office indicated in the schedule. Estimated repair or overhaul costs shall be obtained from contractors providing the service under GSA term contracts, where provided, or at the lowest rate available from other sources. The cost obtained shall include transportation costs.

(a) Electrically operated office machines such as typewriters, adding machines, and desk calculators (excluding the electronic type) under 12 years of age or manually operated office machines under 15 years of age shall not be replaced unless:

(1) The estimated one-time repair or overhaul cost of a machine under 8 years of age exceeds 50 percent of the replacement cost for a comparable new model, without regard to trade-in or sale value; or

(2) The estimated one-time repair or overhaul cost of a machine 8 years of age and over exceeds 25 percent of the replacement cost for a comparable new model, without regard to trade-in or sale value.

(b) Electronic office machines such as calculators, accounting machines, cash registers, and dictating equipment shall be replaced after expiration of the warranty period if the estimated one-time repair cost exceeds 80 percent of the replacement cost of a comparable new model.

(c) Notwithstanding the limitations prescribed in paragraph (a) or (b) of this section, office machines may be replaced under the following conditions provided a written justification supporting such replacement is approved by the agency head or an authorized designee and is retained in the agency files:

(1) In those instances in which there is a continuing history of breakdowns with corresponding loss of productivity through downtime;

(2) When the cumulative repair costs on a machine appear to be excessive, based upon the personal knowledge of the machine operator or supervisor and as indicated by repair records. However, the fact that a machine accrues repair costs equal to the acquisition cost is not necessarily indicative of the current condition of a machine. For example, a substantial repair expenditure included in the cumulative cost may actually have resulted in restoring the machine to as good as new condition. While cumulative repair costs suggest an area for investigation, they should not be used as the principal factor in the repair/replacement decision making process;

(3) When repair parts are not available causing a machine to be out of service for an excessive amount of time; or

(4) When a machine lacks essential features required in the performance of a particular task which is continuing in nature and other suitable machines are not available.

[33 FR 7668, May 24, 1968, as amended at 39 FR 26649, July 22, 1974; 41 FR 25899, June 23, 1976]

§ 101-25.404 Furniture.

Furniture (office, household and quarters, and institutional) shall not be replaced unless the estimated cost of repair or rehabilitation (based on GSA term contracts), including any transportation expense, exceeds at least 75 percent of the cost of a new item of the same type and class (based on prices as shown in the current edition of the GSA Supply Catalog, applicable Federal Supply Schedules, or the lowest available market price). An exception is authorized in those unusual situations in which rehabilitation of the furniture at 75 percent or less of the cost of a new item would not extend its useful life for a period compatible with the cost of rehabilitation as determined by the agency head or his designee.

[38 FR 28566, Oct. 15, 1973]

§ 101-25.404-1 Limitations.

Notwithstanding the provisions in § 101-25.404, agencies shall limit acquisition of new office furniture and office machines to essential requirements as provided in § 101-25.104. Replacement of correspondence filing cabinets will be governed by the provisions of § 101-26.308.

[42 FR 1031, Jan. 5, 1977]

§ 101-25.405 Materials handling equipment.

(a) Materials handling equipment will not be replaced unless the estimated cost of necessary one-time repair or reconditioning of each piece of equipment exceeds, at lowest available cost, the applicable percentage of acquisition cost as shown in column 3 of the following table. Equipment eligible for replacement under the criteria established by this standard may be repaired provided the expected economical life is extended commensurate with the expenditure required. Prior to incurring repair costs for equipment eligible for replacement, consideration should be given to the continuing availability of repair parts.

(1) Years in use shall be determined in accordance with the following:

(i) An operating month is considered equal to 100 operating hours. For materials handling equipment in storage, one month in storage equals 50 hours of operation.

(ii) The number of years in use is determined by dividing the number of operating months by 12. The fractional years in use resulting from this computation will be rounded to the nearest full year.

Column 1—Type of unit	Column 2—Expected years of economical use	Column 3—Maximum allowable "one-time repair limits" as percentage of acquisition costs (years in use)														
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Gasoline																
Fork truck (2000 pounds to 6000 pounds)	8	50	45	40	30	25	20	15	10							
Fork truck (over 6000 pounds)	10	50	45	40	35	30	25	20	15	10	10					
Tractor	8	50	45	40	30	25	20	15	10							
Crane	12	50	50	45	45	40	40	35	30	25	20	15	10			
Platform truck	8	50	45	40	30	25	20	15	10							
Straddle truck	15	50	50	50	45	45	45	40	40	35	35	30	25	20	15	10
Electric																
Fork truck (2000 pounds to 6000 pounds)	15	50	50	50	45	45	45	40	40	35	35	30	25	20	15	10
Tractor	15	50	50	50	45	45	45	40	40	35	35	30	25	20	15	10
Crane	15	50	50	50	45	45	45	40	40	35	35	30	25	20	15	10
Platform truck	15	50	50	50	45	45	45	40	40	35	35	30	25	20	15	10
Pallet truck	15	50	50	50	45	45	45	40	40	35	35	30	25	20	15	10

(2) In using the maximum allowable one-time repair limits in column 3 of the table, costs such as parts, labor, and transportation incident to the repairs, are to be included in computing one-time repair costs. However, operating expenses such as fuels and lubricants, replacement tires and batteries, and antifreeze will not be included in the one-time repair cost estimate.

(b) Notwithstanding the limitations prescribed in § 101-25.405(a), materials handling equipment may be replaced under the following conditions provided a written justification supporting such replacement is approved by the agency head or an authorized designee. The justification shall be retained in the agency files.

(1) When the cumulative repair costs on a piece of equipment appears to be excessive as indicated by repair records. However, because an item of equipment accrues repair costs equal to the acquisition cost, it is not necessarily indicative of the current condition of the equipment. For example, a substantial repair expenditure included in the cumulative cost may actually have resulted in restoring the equipment to as good as new condition. While cumulative repair costs suggest

an area for investigation, they should not be used as the principal ingredient in the repair/replacement decision making process.

(2) When repair parts are not available causing excessive equipment out-of-service time.

(3) When the equipment lacks essential features required in a particular task which is of a continuing nature and other suitable equipment is not readily available.

[32 FR 12400, Aug. 25, 1967]

Subpart 101-25.5—Guidelines for Making Purchase or Lease Determinations

SOURCE: 31 FR 3462, Mar. 5, 1966, unless otherwise noted.

§ 101-25.500 Scope of subpart.

This subpart prescribes guidelines to be used by executive agencies in determining whether acquisition of equipment of the types specified in this subpart should be by purchase or lease. If appropriate, executive agencies should use these guidelines in the determination, allowance, or evaluation of costs under FPR 1-15 to the extent that the guidelines are consistent therewith.

§ 101-25.501 General.

Studies conducted by the Federal Government indicate that in many cases substantial savings can be realized through purchasing rather than leasing certain equipment. These studies emphasize the need for making cost comparisons prior to determining method of acquisition.

§ 101-25.501-1 Acquisition considerations.

(a) Prior to acquisition of the types of equipment specified in this subpart (and to other types as appropriate) consideration shall be given to:

(1) Length of time the equipment is to be used, including extent of usage, e.g., three shifts for 2 years, and including potential additional use by another Federal agency if the equipment becomes excess to the acquiring agency;

(2) Financial and other advantages of all types and makes available;

(3) Leasing costs and purchase options;

(4) Costs of purchase and installation;

(5) Imminent technological improvements; and

(6) Other pertinent factors.

(b) Where an agency already has leased equipment in its possession, consideration shall be given to the feasibility of purchasing such equipment or new equipment of a similar or different type and make.

§ 101-25.501-2 Cost comparison methods.

(a) Different methods may be used for projecting pertinent factors into a cost comparison of alternative methods of acquisition. These range from highly technical methods which include the consideration of factors such as interest rates, technological life, and trade-in or salvage value to a basic method which simply compares the cost of purchasing and maintaining equipment against the cumulative costs of leasing. Irrespective of the method used for cost comparison, the point in time at which cumulative leasing costs exceed purchase costs for specific types of equipment usually does not vary significantly.

(b) A simplified method of making a comparative cost analysis of the alternative methods of acquisition is illustrated for each type of equipment for which purchase or lease guidelines and criteria are established in this Subpart 101-25.5.

§ 101-25.501-3 Reviewing application of guidelines.

(a) The acquiring agency has the primary responsibility for appropriate application of the guidelines established in this Subpart 101-25.5. However, GSA will review data relating to equipment acquisitions involving purchase or lease determinations through a sampling of these transactions as GSA conducts supply management surveys and/or reviews as provided in § 101-25.114.

(b) Copies of cost comparisons and any other pertinent data used to support decisions to lease or purchase equipment shall be retained in the acquiring agency's case file.

[31 FR 3462, Mar. 5, 1966, as amended at 45 FR 41948, June 23, 1980]

§ 101-25.502 Methods of acquisition.

(a) The determination as to whether equipment is to be acquired by purchase or lease shall be made in each case only after comparison of the relative costs of the equipment through use of the methods shown in this § 101-25.502. Cost comparisons shall include those elements affecting the acquisition cost of the specific types of equipment set forth in this Subpart 101-25.5. The method selected shall be that which offers the greatest advantage to the Government under the circumstances applying to each situation, cost and other factors considered.

(b) Upon request, GSA will assist agencies in making appropriate determinations to lease or purchase equipment by providing the latest information on pending price adjustments to Federal Supply Schedule contracts and other factors such as recent or imminent technological developments, new techniques, and industry or market trends. Inquiries should be addressed to the General Services Administration (FP), Washington, D.C. 20406.

[31 FR 3462, Mar. 5, 1966, as amended at 42 FR 1031, Jan. 5, 1977]

§ 101-25.502-1 Purchase method.

(a) A cost advantage can be obtained by the purchase method provided the equipment is used beyond the point in time at which the cumulative leasing costs exceed purchase costs. The purchase method shall be used when it has been established that the equipment under consideration can be used as provided in §§ 101-25.502(a) and 101-25.502(b) beyond the point in time at which the purchase method begins to provide a cost advantage.

(b) The acquisition of selected equipment by the purchase method should not be ruled out in favor of leasing such equipment merely because of the possibility that future technological improvements may render the selected equipment less desirable.

§ 101-25.502-2 Lease method.

(a) The lease with option to purchase method shall be used when it is necessary or advantageous to proceed with acquisition of the equipment that meets program or system requirements but it is determined that purchase should be deferred because circumstances do not fully satisfy the conditions set forth in § 101-25.502-1.

(b) The lease method, without option to purchase, may be used when it is necessary or advantageous to proceed with the acquisition of equipment that meets all program or system requirements, but the conditions for purchase set forth in § 101-25.502-1 cannot be satisfied and a lease contract with purchase option is not attainable.

§ 101-25.503 Telecommunications equipment.

Before any telecommunications equipment, including facsimile, is selected, Federal agencies shall forward the information required by Subpart 101-35.2 to the General Services Administration (CPSR), Washington, D.C. 20405, or to the Regional Commissioner, Automated Data and Telecommunications Service, in the GSA region serving the reporting agency.

(a) In selecting telecommunications equipment (telewriting, facsimile, data, and message transmission equipment), agencies shall take full advantage of the purchase and lease options that may be available under the terms and conditions of the applicable Federal Supply Schedule contracts. When needed equipment is not available from a Federal Supply Schedule or if it is otherwise necessary for an agency to enter into a lease contract for its own requirements, an option to purchase should be provided in the contract.

(b) A cost comparison shall be made based on the best available information and estimates, including those factors in § 101-25.501-1. The cost comparison will reflect a point in time at which cumulative leasing cost will exceed the cost of purchasing. This point in time will provide a basis for appropriate purchase or lease determination based on the expected useful life of the equipment. Where a lease contract contains a purchase option plan, the point in time during a lease period when exercise of the option will be most advantageous will depend upon the purchase option provision of the contract.

(c) The following cost comparison is intended to illustrate how a projection of the relative costs of purchase vs. lease provides a basis for estimating the approximate point at which cost of leasing will exceed cost of purchasing. The comparison assumes that the equipment was acquired at the beginning of the fiscal year and figures are rounded for easy comparison. Of the $400 cost of installation and maintenance, the cost of installation is $100 which is excluded after the first year. The comparison is shown for illustrative purposes only and is not intended to represent an actual situation or take into account cost factors such as site preparation, training cost of operators, supplies used, and other factors which may be applicable and may or may not be identical under purchase or lease arrangements.

Acquisition factor	1st year	2d year	3d year	4th year	5th year	6th year
Cost of purchase (excluding installation and maintenance)	$3,000					
Installation and maintenance (cumulative)	400	$700	$1,000	$1,300	$1,600	$1,900
Total cost (cumulative)	3,400	3,700	4,000	4,300	4,600	4,900
Cost of lease—cumulative (includes installation and maintenance)	1,200	2,400	3,600	4,800	6,000	7,200
Cost of purchase exceeds lease by	2,200	1,300	400			
Cost of lease exceeds purchase by				500	1,400	2,300

[31 FR 3462, Mar. 5, 1966, as amended at 42 FR 1031, Jan. 5, 1977]

§ 101-25.504 Office copying machines.

(a) In selecting office copying machines, agencies shall take full advantage of the purchase and lease options that may be available under the terms and conditions of the applicable Federal Supply Schedule contracts. Generally these contracts provide for receiving credit at certain times during the rental period for portions or for all of the rental payments made. These credits may be applied toward the purchase price of the equipment in some instances, and in others, title automatically passes to the Government when a prescribed percentage of the rentals paid equals the purchase price of the equipment. When needed equipment is not available from a Federal Supply Schedule or if it is otherwise necessary for an agency to enter into a lease contract for its own requirements, an option to purchase should be provided in the contract.

(b) Selection of the appropriate and most economical equipment for the application intended is the responsibility of the ordering agency. The selection process should include a review of the functional and financial advantages of all available copying processes (see § 101-26.408).

(c) Prior to acquisition of equipment, a comparison shall be made of the relative costs of acquiring the equipment by use of the methods described in §§ 101-25.502-1 and 101-25.502-2. The cost comparison shall be based on the best available information and estimates, including those factors in § 101-25.501-1 and any other factors peculiar to office copying machines. The point in time at which cumulative leasing costs exceed the cost of purchasing will be reflected in the comparison. This point in time will provide a basis for appropriate lease or purchase determination based on the expected useful life of the equipment. Where a lease contract contains a purchase option plan, the point in time during a lease period when exercise of the option will be most advantageous will depend upon the purchase option provisions of the contract. The acquisition method selected shall be that which offers the greatest advantage to the Government under the circumstances which pertain to the situation, and the decision shall be supported in accordance with § 101-25.501-3(b).

(d) The following cost comparison is intended to illustrate how a projection of relative costs provides a basis for estimating the approximate point at which cost of leasing will exceed cost of purchasing. The comparison is shown for illustrative purposes only and is not intended to represent an actual situation or take into account cost factors such as cost of supplies, replacement parts, and other factors which may be applicable and may or may not be identical under lease or purchase arrangements. The illustration assumes a lease vs. purchase cost analysis where the lease data is based on a monthly rental charge of $500 and no unit copy charge. The purchase data is based on a purchase price of $15,000 for a new machine, and a maintenance cost of $1,500 per year based on machine usage of 50 hours per week. The purchase option plan permits application toward the purchase price of 75 percent of total rentals paid if purchased during the first 3 months, 60 percent if purchased during the second 3 months, and 50 percent if purchased after 6 months. The purchase option is exercised, in this illustration, at the end of the first year of leasing to give an example of a situation where a budget limitation would not permit immediate purchase or purchase at the time most advantageous for exercising a purchase option. An additional savings of $1,500 could have been realized in this situation if funds had been available and purchase made initially rather than leasing for the first year and exercising the purchase option at the end of that time as illustrated.

Acquisition factor	1st year	2d year	3d year	4th year	5th year	6th year	7th year	8th year
Lease with purchase option (option exercised at the end of the first year):								
Cumulative lease cost	$6,000							
Less credit upon purchase	3,000							
Purchase cost	15,000							
Cumulative maintenance cost		$1,500	$3,000	$4,500	$6,000	$7,500	$9,000	$10,500
Cumulative lease/purchase option cost	18,000	19,500	21,000	22,500	24,000	25,500	27,000	28,500
Lease:								
Cumulative lease cost (including maintenance)	6,000	12,000	18,000	24,000	30,000	36,000	42,000	48,000
Cumulative lease with purchase option costs exceed cumulative lease costs by	12,000	7,500	3,000					
Cumulative lease costs exceed cumulative lease with purchase option costs by				1,590	6,000	10,500	15,000	19,500

[31 FR 3462, Mar. 5, 1966, as amended at 42 FR 1031, Jan. 5, 1977]

Subparts 101-25.6—101-25.47 [Reserved]

Subpart 101-25.48—Reports

§ 101-25.4800 Scope of subpart.

This subpart prescribes the requirements for reporting to GSA on matters pertaining to the general area of supply management.

[29 FR 15996, Dec. 1, 1964]

§ 101-25.4801 Supply Activity Report [1].

(a) Executive agencies, except the Department of Defense, shall submit reports on GSA Form 1473, Supply Activity Report (Interagency Report Control No. 1220-GSA-AN), illustrated at § 101-25.4902-1473, for each fiscal year in an original and one copy. Reports, including negative reports if applicable, shall be forwarded to the General Services Administration (FF), Washington, DC 20406, by December 15.

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[1] For temporary regulations relating to §§ 101-25.4801, 101-25.4902—1473, and 101-25.4902—1473.1, see the appendix at the end of this Subchapter E.

(b) GSA Form 1473 submission requirements are: (1) One set of reports shall be prepared by each agency to include supply activities in the United States, the possessions, trust territories, and the Canal Zone;

(2) Each set of agency reports shall consist of separate reports for each bureau or comparable major subdivision; and

(3) Within the agency headquarters, bureaus, or comparable major subdivisions, separate reports shall be prepared by each office which maintains an account for or a record of items which are received, stored, and issued from warehouses, depots, or other types of storage facilities.

(c) Agencies are not required to submit the data specified in part I of GSA Form 1473 when any of the conditions listed below apply; however, the data in parts II through V shall be submitted by agencies to the extent that they are applicable to agency operations.

(d) Agencies unable to provide all data required in this report shall request approval for exceptions from the General Services Administration (FF), Washington, D.C. 20406. Requests for such exceptions shall contain detailed information.

[39 FR 30117, Aug. 21, 1974; 39 FR 30932, Aug. 27, 1974, as amended at 41 FR 14865, Apr. 8, 1976; 42 FR 22558, May 4, 1977]

Subpart 101-25.49—Illustrations of Forms

§ 101-25.4900 Scope of subpart.

This subpart illustrates forms prescribed or available for use in connection with subject matter in other subparts of Part 101-25. When applicable, this includes instructions for preparation of the forms illustrated.

[29 FR 15996, Dec. 1, 1964]

§ 101-25.4901 [Reserved]

§ 101-25.4902 GSA forms.

(a) GSA forms in this section show their text, format, and arrangement and provide a ready source of reference.

(b) GSA forms in this section may be obtained initially from the General Services Administration (3 FNDD), Union and Franklin Streets Annex, Building 11, Alexandria, VA 22314. Agency regional or field offices should submit future requirements to their Washington headquarters office which will forward consolidated annual requirements to the General Services Administration (BRO), Washington, D.C. 20405.

[29 FR 15996, Dec. 1, 1964, as amended at 41 FR 14865, Apr. 8, 1976]

§ 101-25.4902-1473 GSA Form 1473, Supply Activity Report.[1]

NOTE: The form illustrated in § 101-25.4902-1473 is filed as part of the original document and does not appear in the FEDERAL REGISTER.

[41 FR 14865, Apr. 8, 1976]

§ 101-25.4902—1473-1 Instructions for preparation of GSA Form 1473, Supply Activity Report [1].

NOTE: The form and instructions in § 101-25.4902—1473-1 are filed as part of the original document and does not appear in the FEDERAL REGISTER.

[39 FR 30117, Aug. 21, 1974, as amended at 41 FR 37575, Sept. 7, 1976; 42 FR 22558, May 4, 1977]

PART 101-26—PROCUREMENT SOURCES AND PROGRAMS

Sec.
101-26.000 Scope of part.

Subpart 101-26.1—General

101-26.100 Scope of subpart.
101-26.100-1 Procurement of lowest cost items.
101-26.100-2 Request for waivers.
101-26.100-3 Warranties.
101-26.101 Utilization of long supply and excess personal property.
101-26.102 Special buying services.
101-26.102-1 General.

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[1] For temporary regulations relating to §§ 101-25.4801, 101-25.4902—1473, and 101-25.4902—1473-1, see the end of this Subchapter E.

Sec.
101-26.102-2 Utilization by military agencies.
101-26.102-3 Procurement leadtime.
101-26.102-4 Direct payment to GSA contractors.
101-26.103 Establishing essentiality of requirements.
101-26.103-1 Policy for personal property.
101-26.103-2 Restriction on personal convenience items.
101-26.104 End-of-year submission of requisitions for actions by GSA.
101-26.105 Justification to support negotiated procurement by GSA for other agencies.
101-26.106 Consolidation of requirements.
101-26.107 Priorities for use of supply sources.

Subpart 101-26.2—Federal Requisitioning System

101-26.200 Scope of subpart.
101-26.201 General.
101-26.202 Applicability.
101-26.203 Activity address codes.
101-26.204—101-26.205 [Reserved]
101-26.206 GSA assistance.

Subpart 101-26.3—Procurement of GSA Stock Items

101-26.300 Scope of subpart.
101-26.301 Applicability.
101-26.301-1 Similar items.
101-26.301-2 Issue of used, repaired, and rehabilitated items in serviceable condition.
101-26.302 Standard and Optional forms.
101-26.303 Out-of-stock items.
101-26.304 Substitution policy.
101-26.305 Submission of orders to GSA.
101-26.306 Planned requisitioning for GSA stock items.
101-26.307 Processing overages, shortages, and damages.
101-26.308 Obtaining filing cabinets.
101-26.309 Cancellation of orders for GSA stock items.
101-26.310 Ordering errors.
101-26.311 Frustrated shipments.

Subpart 101-26.4—Purchase of Items From Federal Supply Schedule Contracts

101-26.401 Applicability.
101-26.401-1 Mandatory use of schedules.
101-26.401-2 Primary source of supply concept.
101-26.401-3 Similar items.
101-26.401-4 Exceptions to mandatory use.
101-26.401-5 Non-mandatory use provisions.
101-26.402 General.
Sec.
101-26.402-1 Schedule method of contracting.
101-26.402-2 Schedule features.
101-26.402-3 Distribution.
101-26.402-4 Schedule identification.
101-26.402-5 Contract provisions.
101-26.403 Performance and default under Federal Supply Schedule contracts.
101-26.403-1 Responsibilities.
101-26.403-2 Inspection.
101-26.403-3 Delinquent performance.
101-26.403-4 Disputes.
101-26.403-5 Default; ordering office.
101-26.403-6 Default; GSA.
101-26.403-7 Failure to collect excess costs.
101-26.404 [Reserved]
101-26.405 Automatic data processing equipment.
101-26.406 U.S. Government National Credit Card for use in obtaining service station deliveries and services.
101-26.406-1 General.
101-26.406-2—101-26.406-4 [Reserved]
101-26.406-5 Methods of obtaining Standard Form 149, U.S. Government National Credit Card.
101-26.406-6 Controlled shipments of U.S. Government National Credit Cards.
101-26.406-7 Government Printing Office waiver.
101-26.407 Procurement of security equipment by Government fixed-price prime contractors and subcontractors.
101-26.407-1 General.
101-26.407-2 Applicability.
101-26.407-3 Procedure for ordering security equipment.
101-26.407-4 Use of security cabinets.
101-26.408 Multiple-award contracts.
101-26.408-1 Description.
101-26.408-2 Procurement at lowest price.
101-26.408-3 Justifications.
101-26.408-4 Placement of orders against multiple-award schedules.
101-26.408-5 Price reductions during contract period.

Subpart 101-26.5—GSA Procurement Programs

101-26.500 Scope and applicability of subpart.
101-26.501 Purchase of new motor vehicles.
101-26.501-1 General.
101-26.501-2 Consolidated purchase program.
101-26.501-3 Submission of orders.
101-26.501-4 Procurement time schedules.
101-26.501-5 [Reserved]
101-26.501-6 Forms used in connection with delivery of vehicles.
101-26.501-7 Sale of vehicles.
101-26.501-8 Notification of vehicle defects.
101-26.502 Purchase of water coolers (dispensers).

Sec.
101-26.502-1 Submission of purchase authorities.
101-26.502-2 Types of water coolers (dispensers).
101-26.503 Appliances.
101-26.503-1 General.
101-26.503-2 Submission of requirements.
101-26.504 [Reserved]
101-26.505 Office and household furniture and furnishings.
101-26.505-1 Description of office and household furniture.
101-26.505-2 Description of office and household furnishings.
101-26.505-3 Requests to procure similar items from sources other than GSA supply sources.
101-26.505-4—101-26.505-6 [Reserved]
101-26.505-7 GSA assistance in selection of furniture and furnishings.
101-26.506 Interior planning and design services.
101-26.506-1 Types of service.
101-26.506-2 Limitations.
101-26.506-3 Submission of requests.
101-26.506-4 Acceptance and processing of requests.
101-26.506-5 Reimbursement for services.
101-26.507 Security equipment.
101-26.507-1 Submission of requisitions.
101-26.507-2 Procurement time schedule.
101-26.507-3 Purchase of security equipment from Federal Supply Schedules.
101-26.507-4 Quantities in excess of the maximum order limitation.
101-26.508 Electronic data processing (EDP) tape and instrumentation tape (wide and intermediate band).
101-26.508-1 Requisitioning data processing tape available through Federal Supply Schedule contracts.
101-26.508-2 Requisitioning data processing tape not available from Federal Supply Schedule contracts.
101-26.508-3 Consolidation of requisitions.
101-26.509 Tabulating machine cards.
101-26.509-1 Requisitioning tabulating machine cards available from Federal Supply Schedule contracts.
101-26.509-2 Requisitioning tabulating machine cards not available from Federal Supply Schedule contracts.
101-26.509-3 Consolidation of requisitions.

Subpart 101-26.6—Procurement Sources Other Than GSA

101-26.600 Scope and applicability of subpart.
101-26.601 [Reserved]
101-26.602 Fuels and packaged petroleum products obtained from or through the Defense Logistics Agency.
101-26.602-1 Procurement of lubricating oils, greases, and gear lubricants.
Sec.
101-26.602-2 Procurement of packaged petroleum products.
101-26.602-3 Procurement of gasoline, fuel oil (diesel and burner), kerosene, and solvents.
101-26.602-4 Procurement of coal.
101-26.603 Electronic items available from the Defense Logistics Agency.
101-26.605 Items other than petroleum products and electronic items available from the Defense Logistics Agency.
101-26.606 Supply support available from the inventory control points of the military departments.
101-26.607 Billings.
101-26.607-1 Payments.
101-26.607-2 Adjustments.
101-26.607-3 Emergency requirements.

Subpart 101-26.7—Procurement Sources Other Than GSA and the Department of Defense

101-26.700 Scope and applicability of subpart.
101-26.701 Purchase of products and services from the blind and other severely handicapped persons.
101-26.702 Purchase of products manufactured by the Federal Prison Industries, Inc.
101-26.703 Marginally punched continuous forms.
101-26.704 Purchase of nonperishable subsistence (NPS) items.

Subpart 101-26.8—Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings

101-26.800 Scope of subpart.
101-26.801 Applicability.
101-26.802 Exclusions.
101-26.803 Discrepancies or deficiencies in shipments, material, or billings.
101-26.803-1 Reporting discrepancies or deficiencies.
101-26.803-2 Adjustments.

Subparts 101-26.9—101.26.47 [Reserved]

Subpart 101-26.48—Exhibits

101-26.4800 Scope of subpart.
101-26.4801 Procurement leadtimes.

Subpart 101-26.49—Illustrations of Forms

101-26.4900 Scope of subpart.
101-26.4901 Standard forms.
101-26.4901-149 Standard Form 149, U.S. Government National Credit Card.
101-26.4902 GSA forms.
101-26.4902-457 GSA Form 457, FSS Publications Mailing List Application.

Sec.
101-26.4902-1398 GSA Form 1398: Motor vehicle purchase and inspection label.
101-26.4902-1424 GSA Form 1424, GSA Supplemental Provisions.
101-26.4902-1781 GSA Form 1781, Motor Vehicle Requisition — Delivery Order—Invoice.
101-26.4902-2891 GSA Form 2891, Instructions to Users of Federal Supply Schedules.
101-26.4904 Other agency forms.
101-26.4904-416 DD Form 416: Purchase Request for Coal, Coke, or Briquettes.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 101-26.000 Scope of part.

This part prescribes policies and procedures which govern the procurement of personal property and nonpersonal services by Federal agencies from or through GSA supply sources as established by law or other competent authority. The specific subparts or sections covering the subject matter involved prescribe the extent to which the sources of supply are to be used by Government agencies. Certain civilian and military commissaries and nonappropriated fund activities are also eligible to use GSA supply sources for their own use, not for resale, unless otherwise authorized by the individual Federal agency and concurred in by GSA. Policy and procedures pertaining to purchasing of property or contracting for services from commercial sources, without recourse to established GSA supply sources, are provided in the Federal Procurement Regulations and are exempted from this part.

[40 FR 41093, Sept. 5, 1975]

Subpart 101-26.1—General

§ 101-26.100 Scope of subpart.

This subpart provides policy guidance of a general nature concerning procurement of lowest cost items obtainable from GSA supply sources; availability from GSA of special buying services in addition to the specified GSA procurement sources; criteria for placing end-of-year purchase documents with GSA and for insuring that end-of-year requisitions placed with GSA obligate the applicable fiscal year appropriation; and justification requirements to support negotiated procurement by GSA for other agencies.

[36 FR 17423, Aug. 31, 1971]

§ 101-26.100-1 Procurement of lowest cost items.

GSA provides lines of similar items to meet particular end-use requirements under both its supply distribution system and the Federal Supply Schedule program. Although these similar items may differ in terms of price, quality, and essential characteristics, they can often serve the same functional end-use procurement needs of the various ordering agencies. Therefore, in submitting requisitions for an item obtainable from both GSA stock and Federal Supply Schedule contracts, agencies shall utilize the source from which the lowest cost item can be obtained which will adequately serve the functional end-use purpose.

[40 FR 41093, Sept. 5, 1975]

§ 101-26.100-2 Request for waivers. [1]

When items or services provided by GSA stock or Federal Supply Schedule will not serve the required functional end-use purpose, requests to waive the requirement for use of GSA sources shall be submitted to GSA for consideration. Personal preference, subjective evaluations, or lower cost without other substantive considerations are not acceptable as sufficient justification for a waiver. Waivers are not required for items or services procured in accordance with policy set forth in § 101-26.100-1 relating to the acquisition of the lowest cost item from GSA sources.

(a) Requests for waivers shall be submitted to the Commissioner, Federal Supply Service, General Services Administration, Washington, DC 20406, and, if considered justified, will be approved. If disapproved, the requesting office will be so notified. Such requests shall contain:

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[1] See Temporary Regulation E-73 in the appendix to Subchapter E for temporary changes to § 101-26.100-2.

(1) Complete description of the item requested. (Descriptive literature such as cuts, illustrations, drawings, and brochures which show the characteristics or construction of the item or explain its operation should be furnished wherever possible in satisfaction of this requirement.)

(2) Comparison of price and pertinent technical differences between the item requested and the GSA item:

(i) Inadequacies of the GSA item in performing required functions.

(ii) Advantages of the item requested, such as technical, economic, or other.

(3) Quantity required. (If demand is recurrent (estimate annual usage), nonrecurrent, or unpredictable, so state.)

(4) Other pertinent dates when applicable.

(b) Agencies shall not initiate action to procure similar items from non-GSA sources until a request for a waiver has been requested from and approved by GSA. The fact that action to procure a similar item has been initiated will not influence GSA action on a request for waiver.

[36 FR 17423, Aug. 31, 1971, as amended at 41 FR 6772, Feb. 13, 1976]

§ 101-26.100-3 Warranties.

(a) Through its procurement sources and programs GSA provides for certain types of items and services which are covered by warranties. Such warranties allow ordering activities additional time after acceptance within which to assert a right to correct certain deficiencies in supplies or services furnished. The additional time period and the specific corrective actions for which the contractor is responsible are usually stated in the warranty. Items and services subject to warranties are normally identified by a warranty marking or notice. Such marking or notice will state that a warranty exists, its extent of coverage, its duration, and whom to notify concerning defects.

(b) Using activities shall take the following actions when items or services (except automotive vehicles and components) which are subject to provisions of § 101-26.501-6(b) covered by warranty provisions are found to be defective during the warranty period.

(1) Activities in the conterminous United States shall:

(i) Contact the contractor in writing and request corrective action (contacts by telephone shall be confirmed in writing);

(ii) After such contact, return the item without cost to the Government by the most economical means, provided the contractor is willing to have the item returned; or

(iii) Turn the case over to the inquiry and adjustment activity of the appropriate GSA support region when the contractor refuses to correct or fails to replace either a defective item or an aspect of a service under the warranty. Include in the case file copies of all correspondence with the contractor. In addition, furnish all available data pertaining to the end item; i.e., requisition number, contract and/or purchase order number, national stock number, name of end item, manufacturer, model number, serial number, description of part (including part number if available), or aspect of service to be corrected or replaced, and the reason for failure of the item or service, if known. This information shall be provided on the appropriate reporting form designated for this purpose.

(2) Activities outside of the conterminous United States shall:

(i) When it is known that the manufacturer has an overseas sales and service department, contact that department and request it to correct or replace the defective item or service; or

(ii) When either a sales or service department is not available overseas or the contractor refuses to correct or fails to replace a defective item or service under the warranty, submit a FEDSTRIP/MILSTRIP requisition with document item identifier code A05 to the inquiry and adjustment activity of the appropriate GSA support region. Insert in the remarks column as exception data "Warranty Replacement Item." Along with the FEDSTRIP/MILSTRIP requisition, using the appropriate reporting documents, submit all available data regarding the end item; i.e., requisition number, contract and/or purchase order number, national stock number, name of end item, manufacturer, model number, serial number, description of part (including part number if available), or aspect of service to be corrected or replaced, and the reason for failure of the item or service, if known. The GSA support region will initiate action to obtain the necessary replacement and arrange for shipment to the using activity.

(c) Executive agencies, prior to initiating requests to GSA for assistance in obtaining corrective action from suppliers on items or services covered by a warranty, should evaluate the administrative costs involved to ascertain whether such costs exceed the value of the commercial privilege being made available under the warranty. Where the Government seeks to establish a legal precedent in significant recurring warranty situations, less consideration should be given to possible substantial administrative costs to be incurred for such purpose.

[40 FR 25012, June 12, 1975, as amended at 42 FR 58748, Nov. 11, 1977]

§ 101-26.101 Utilization of long supply and excess personal property.

To the fullest extent practicable, agencies shall utilize inventories in long supply, as prescribed in Subpart 101-27.3, and excess personal property, as prescribed in Part 101-43, as a first source of supply in fulfilling their requirements.

[34 FR 200, Jan. 7, 1969]

§ 101-26.102 Special buying services.

[29 FR 15610, Nov. 20, 1964]

§ 101-26.102-1 General.

(a) GSA is a nonmandatory source of supply for activities of executive agencies in the conterminous United States, Hawaii, and Alaska for nonstock centrally procured items managed by GSA when the total value of the line item requirement is less than $100. Agencies shall not divide orders to avoid requisitioning items from GSA.

(b) Upon request, GSA will perform purchasing services in addition to the sources specifed in this Part 101-26.

(c) Any Federal agency, mixed-ownership corporation, the government of the District of Columbia, the Senate, the House of Representatives, or the Architect of the Capitol and any non-Federal agency, when the function of a Federal agency authorized to procure for it is transferred to GSA, may arrange for these special buying services to be performed by GSA.

[45 FR 55726, Aug. 21, 1980]

§ 101-26.102-2 Utilization by military agencies.

Military activities shall utilize the buying services of GSA when:

(a) GSA has agreed with the Secretary of Defense, or with the Secretary of a military department in connection with the requirements of that department, to perform such buying services; and

(b) The items involved are not properly obtainable from GSA stock or Federal Supply Schedules.

[29 FR 15610, Nov. 20, 1964, as amended at 36 FR 17423, Aug. 31, 1971]

§ 101-26.102-3 Procurement leadtime.

When GSA performs the purchasing services for other agencies or activities as contemplated by this § 101-26.102-3, calculation of the delivery dates required for the items involved shall be based on the procurement leadtimes illustrated in § 101-26.4801. These leadtimes are based on the normal time required after receipt of agency requisitions by GSA to effect delivery to destinations within the 50 States.

(a) Time required to obtain any additional essential information from the requisitioning office for use in issuing a solicitation for bids or offers is not included in the leadtimes.

(b) If unusually large quantities or complex items are required, leadtime adjustments should be made to reflect the specific requirement. As an example, standard electronic and communication equipment can usually be delivered within 4 months after receipt of the requisition. The same items requiring special manufacturing modifications could require 6 months. Footnotes relating to classes where this is a frequent occurrence are shown in the table (§ 101-26.4801).

(c) The table does not apply to public exigency or other high priority requisitions; however, it should be used as a guide to establish realistic required delivery dates for such requisitions.

[32 FR 17939, Dec. 15, 1967, as amended at 40 FR 41093, Sept. 5, 1975]

§ 101-26.102-4 Direct payment to GSA contractors.

When nonstock items procured under the provisions of this subpart are delivered directly to agencies by GSA contractors, agencies shall make direct payment to the contractor in accordance with Subpart 101-2.101.

[45 FR 41947, June 23, 1980]

§ 101-26.103 Establishing essentiality of requirements.

[36 FR 17423, Aug. 31, 1971]

§ 101-26.103-1 Policy for personal property.

To obtain maximum benefit from Government funds available for procurement of personal property, each executive agency shall:

(a) Insure that personal property currently on hand is being utilized to the fullest extent practical and provide supporting justification prior to effecting new procurement for similar type property. (When the proposed procurement is for similar items from non-GSA sources, the provisions of § 101-26.100-2 apply.)

(b) Procure the minimum quantity and quality of property which is required to support the mission of the agency and to satisfy the function for which the property is required.

(c) Limit procurement of different varieties, types, sizes, colors, etc., of required items to those essential in satisfying the functional end-use purpose. To this end the quantity, quality, and variety of personal property required to adequately perform the end-use function should be determined prior to initiation of procurement processes.

[36 FR 17423, Aug. 31, 1971]

§ 101-26.103-2 Restriction on personal convenience items.

Government funds may be expended for pictures, objects of art, plants, or flowers (both artificial and real), or any other similar type items when such items are included in a plan for the decoration of Federal buildings approved by the agency responsible for the design and construction. Determinations as to the need for purchasing such items for use in space assigned to any agency are judgments reserved to the agency. Determinations with respect to public space such as corridors and lobbies are reserved to the agency responsible for operation of the building. Except as otherwise authorized by law, Government funds shall not be expended for pictures, objects of art, plants, flowers (both artificial and real), or any other similar type items intended solely for the personal convenience or to satisfy the personal desire of an official or employee. These items fall into the category of "luxury items" since they do not contribute to the fulfillment of missions normally assigned to Federal agencies.

[36 FR 17423, Aug. 31, 1971]

§ 101-26.104 End-of-year submission of requisitions for action by GSA.

(a) Purchase documents for supplies or services submitted to GSA at or near the close of a fiscal year shall reflect actual agency requirements and shall not be used as a means of exhausting appropriation balances.

(b) Under the FEDSTRIP/MILSTRIP systems, the requisitions submitted to GSA are not required to reflect the applicable appropriation or fiscal year funds to be charged. The Fund Code entry on the requisition simply indicates to the supply source (GSA) that funds are available to pay the charge, thereby providing authority for the release of material and subsequent billing. Requisitions received by GSA in purchase authority format are normally likewise converted to FEDSTRIP/MILSTRIP documentation so that processing can be accomplished expeditiously through a uniform system based on the use of automated equipment. Accordingly, primary responsibility rests with the ordering activity for ensuring that requisitions intended to be chargeable to appropriations expiring the last day of the fiscal year are submitted in sufficient time for GSA to consummate the necessary action before the end of the fiscal year. Requisitions submitted on or before the last day of the fiscal year may be chargeable to appropriations expiring on that date provided the ordering agency is required by law or GSA regulation to use GSA supply sources. When the ordering agency is not required to use GSA sources, requisitions for GSA stock items may be recorded as obligations provided the items are intended to meet a bona fide need of the fiscal year in which the need arises or to replace stock used in that fiscal year; requests for other than GSA stock items are to be recorded as obligations at the time GSA awards a contract for the required items. In the latter case, GSA procurement leadtimes illustrated in § 101-26.4801 should be used as a guide for timely submission of these requisitions. The leadtimes referred to relate to the number of days between submission of a requisition and actual delivery of the items involved. While this may furnish some guidance to requisitioners, there is no direct relationship between those leadtimes and the time it takes for GSA to make an award of a contract.

(c) End-of-year submission of requisitions which require GSA to award a contract not later than the last day of the fiscal year in order to obligate the appropriation or funds of the ordering agency will be annotated to indicate that GSA procurement of the requested items must be accomplished not later than the last day of the fiscal year in which the requisitions are submitted. For example, a FEDSTRIP/MILSTRIP requisition should be prepared to include Document Identifier Code A0E or A05 and reflect the annotation in the "Remarks" block. With this information GSA will attempt to complete procurement action before the end of the fiscal year. When a requistion is received too late to permit GSA to complete procurement action before the end of the fiscal year, the requisitioning activity will be so notified and requested to furnish instructions regarding the action to be taken. Based on these instructions, procurement action will be taken or the requisition will be canceled and returned to the ordering activity.

[33 FR 19013, Dec. 20, 1968, as amended at 40 FR 41093, Sept. 5, 1975]

§ 101-26.105 Justification to support negotiated procurement by GSA for other agencies.

Each requisition submitted by an agency to GSA requiring negotiated procurement shall be accompanied by a justification or findings and determination, as applicable. When the justification or findings and determination does not clearly and fully support the requested procurement, the requesting agency will be so notified and requested to furnish sufficient information to satisfy the requirements of the applicable negotiation authority. The GSA contracting officer will suspend procurement action pending receipt of the requested information.

(a) When the requisition is for items to be procured under § 1-3.202 (public exigency), civilian agencies shall use FEDSTRIP priority designator codes 03 or 06. DOD requisitioning activities, under the Uniform Materiel Movement and Issue Priority System (UMMIPS), shall use priority designator codes 01 through 06.

NOTE: A requisition which cites a priority designator above 06 may justify negotiation under this or other negotiation authority, but in such instances the request must be accompanied by a justification setting forth specific circumstances sufficient to support the findings and determination to be made by the GSA contracting officer.

(b) When the requisition is for a requirement to be procured by negotiation under § 1-3.208 (property purchased for authorized resale) or § 1-3.210 (impracticable to secure competition by formal advertising), the request must refer to and be accompanied by a statement containing sufficient information to justify use of the negotiating authority contemplated. For circumstances permitting negotiation as set forth in § 1-3.210, each requisition for a particular make, model, brand, or other similarly designed item, or which restricts procurement action to a limited number of competing commercially available products, must be justified by a statement of facts establishing the minimum needs to be fulfilled, and that these needs can be satisfied only by procurement of the designated item or any one of a limited number of competing commercially available products. (Personal preference and subjective evaluations are not acceptable as sufficient justification.) Specifically, the justification statement must include the following detailed information:

(1) The specific needs to be satisfied in terms of identified tasks or work processes;

(2) The requirements that generate the specific needs;

(3) The characteristics of the designated item that enable it to satisfy the specific needs; and

(4) Identification of other items evaluated and, for each, a statement of the characteristics (or lack thereof) which preclude their satisfying the specific needs.

(c) When the requisition is for a requirement to be procured by negotiation under § 1-3.211 (experimental, developmental, or research work), § 1-3.212 (purchases not to be publicly disclosed), or § 1-3.213 (technical equipment requiring standardization and interchangeability of parts), the requests must refer to and be accompanied by a copy of a findings and determination made by the head of the requesting agency. However, in the case of contracts for experimental, developmental, or research work which will not require the expenditure of more than $25,000 or such higher amount as may have been delegated by the head of the requesting agency, the findings and determination may be made by the chief officer responsible for procurement when authorized by the delegation or as provided in § 1-3.303.

(d) When the requisition is for a requirement to be procured by negotiation in accordance with § 1-3.215 (otherwise authorized by law), the request must cite the law authorizing negotiation and refer to and be accompanied by any justification or findings and determination required by such authority and applicable regulations.

[40 FR 41094, Sept. 5, 1975, as amended at 43 FR 22210, May 24, 1978]

§ 101-26.106 Consolidation of requirements.

Full consideration shall be given to the consolidation of individual small volume requirements to enable the Government to benefit from lower prices normally obtainable through definite quantity contracts for larger volume procurements. This policy pertains to procurement from commercial sources either direct or through an intermediary agency and does not apply to GSA stock items or small volume requirements normally obtained from a GSA self-service store. When it is practical, each agency shall establish procedures that will permit planned requirements consolidation on an agency-wide basis. When it is impractical to plan requirements on an agency-wide consolidated basis, the requirements consolidation effort may be limited to a bureau, to other agency segments, or to a program, if such limited consolidation will provide significant price advantages when procurement is effected on a volume basis. Requisitions for items requirements exceeding maximum order limitations in Federal Supply Schedule contracts shall be submitted to GSA in accordance with the applicable instructions in the respective schedules. Special buying services desired by/agencies for procurement of other consolidated item requirements shall be requested from GSA in accordance with § 101-26.102.

[40 FR 41094, Sept. 5, 1975]

§ 101-26.107 Priorities for use of supply sources.

(a) Executive agencies shall satisfy requirements for supplies and services from or through the sources and publications listed below in descending order as indicated:

(1) *Supplies.* (i) Agency inventories; (ii) Excess from other agencies; (iii) Federal Prison Industries, Inc.; (iv) Procurement lists of products available from the Committee for Purchase from the Blind and Other Severely Handicapped; (v) GSA stock program and other wholesale suppliers, such as the Defense Logistics Agency, Veter-

ans Administration, and military inventory control points; (vi) Mandatory Federal Supply Schedules; (vii) Optional use Federal Supply Schedules; and (viii) Commercial sources (including educational and nonprofit institutions).

(2) *Services.* (i) Procurement lists of services available from the Committee for Purchase from the Blind and Other Severely Handicapped; (ii) Mandatory Federal Supply Schedules and mandatory GSA term contracts for personal property rehabilitation; (iii) Optional use Federal Supply Schedules and optional GSA term contracts for personal property rehabilitation; and (iv) Federal Prison Industries, Inc., or other commercial sources (including educational and nonprofit institutions).

(b) Sources other than those listed above may be used as prescribed in § 101-26.301 and in a public exigency as prescribed in §§ 1-3.202 and 101-25.101-5 of this title.

[44 FR 47935, Aug. 16, 1979, as amended at 45 FR 17008, Mar. 17, 1980]

Subpart 101-26.2—Federal Requisitioning System

§ 101-26.200 Scope of subpart.

This subpart prescribes a uniform requisitioning and issue system for use in obtaining supplies and equipment from GSA, Department of Defense, and Veterans Administration sources.

[43 FR 19852, May 9, 1978]

§ 101-26.201 General.

This requisitioning and issue system is identified as the Federal Standard Requisitioning and Issue Procedures (FEDSTRIP) and is similar to and compatible with the Military Standard Requisitioning and Issue Procedures (MILSTRIP). The FEDSTRIP system provides GSA and other supply sources the means to automate the processing of requisitions. Detailed instructions required to implement FEDSTRIP are contained in the GSA Handbook, FEDSTRIP Operating Guide (FPMR 101-26.2), which is issued and maintained by the Commissioner, Federal Supply Service, GSA.

[43 FR 19852, May 9, 1978]

§ 101-26.202 Applicability.

The FEDSTRIP system shall be used by civilian agencies to requistion any item from GSA or to requisition any specifically authorized item from Department of Defense (DOD). Requisitions to the Veterans Administration (VA) should be submitted on punched cards in FEDSTRIP format or typed on Standard Form 147, Order for Supplies or Services.

[43 FR 19853, May 9, 1978]

§ 101-26.203 Activity address codes.

To obtain items through the FEDSTRIP system, each ordering activity is required to have an activity address code. The FEDSTRIP Operating Guide (FPMR 101-26.2) contains instructions to civilian agencies on requesting activity address codes. Once assigned, an activity address code allows an activity to order supplies under the FEDSTRIP system. Because there is a potential for abuse in the use of these codes, agencies shall establish stringent internal controls to ensure that the codes are used only by authorized personnel. It is imperative that all requests for activity address codes or deletions or address changes flow through a central contact point in the agency headquarters or regions where the need, purpose, and validity of the request can be verified. Agencies should send GSA the addresses of the contact points (mailing address: General Services Administration (FSR), Washington, DC 20406). GSA will only honor requests from the established points within the agency. GSA will periodically send a listing of current activity address codes and addresses to contact points for review.

[45 FR 71565, Oct. 29, 1980]

§§ 101-26.204—101-26.205 [Reserved]

§ 101-26.206 GSA assistance.

Agency field activities should direct their questions regarding FEDSTRIP to the Federal Supply Service at each GSA regional office. The addresses of GSA regional offices are listed in each of the volumes of the GSA Supply Catalog. Agency headquarters activities requiring assistance may contact General Services Administration (FSR), Washington, DC 20406.

[45 FR 71565, Oct. 29, 1980]

Subpart 101-26.3—Procurement of GSA Stock Items

§ 101-26.300 Scope of subpart.

This subpart prescribes policy and procedures governing the procurement by agencies of items of supply stocked by GSA, including reporting and obtaining adjustments for overages, shortages, and damages and the issue of used, repaired, and rehabilitated items in serviceable condition.

[35 FR 12721, Aug. 11, 1970]

§ 101-26.301 Applicability.

All executive agencies within the United States (including Hawaii and Alaska) shall requisition from GSA needed stock items available from GSA supply distribution facilities, including items needed by activities located outside of the United States which are required, by agency instruction or otherwise, to be requisitioned in the United States except as provided in this § 101-26.301 and as may be otherwise specifically authorized. (Items available from GSA stock are listed or described in the GSA Supply Catalog, which is issued in accordance with Subpart 101-30.6.) Federal agencies not required to requisition stock items from GSA are encouraged to do so.

(a) Except for standard forms, the Department of Defense (DOD) will use this source of supply for all items which have been identified as GSA supply support items pursuant to GSA/DOD agreements. DOD requirements for standard forms are obtained as provided in § 101-26.302.

(b) GSA is a nonmandatory source of supply for activities in the conterminous United States, Hawaii, and Alaska for items listed in the GSA Supply Catalog when the total value of the line item requirement is less than $25, except for requirements for Standard and Optional forms (see § 101-26.302), items produced by the Federal Prison Industries, Inc., or items listed in the Procurement List published by the Committee for Purchase from the Blind and Other Severely Handicapped. Agencies shall not divide orders to avoid the requirement to requisition from GSA. GSA will process all requisitions for stock items, regardless of value, from activities electing not to exercise the option provided by this § 101-26.301(b).

(c) Procurement of items from other sources may be made in cases of public exigency. (See § 1-3.202 for examples of public exigency cases when time or circumstances may not permit obtaining the item from GSA.)

(d) Small purchases other than those made as a result of public exigency may be made at the site of work or point of need in satisfaction of day-to-day requirements that cannot be foreseen. Such purchases shall be made in accordance with § 1-3.6 and the quantities procured shall not exceed immediate needs.

(e) When the following sources are utilized, procurement may be made without recourse to GSA:

(1) Contracts for marginally punched forms issued by the Government Printing Office (GPO), or the GPO for blank paper and envelopes for delivery in the District of Columbia, as shown in the GPO catalog. (However, orders for marginally punched standard forms must be routed through GSA in accordance with § 101-26.302.)

(2) Federal Supply Schedule contracts.

[31 FR 9541, July 14, 1966, as amended at 45 FR 55726, Aug. 21, 1980]

§ 101-26.301-1 Similar items.

(a) Agencies required to requisition, exclusively, items listed in the GSA Supply Catalog shall utilize such items in lieu of procuring similar items from other sources when the GSA items will adequately serve the required functional end-use purpose.

(b) When an agency determines that items available from GSA stock will not serve the required functional end-use purpose of the item proposed to be procured, a request to waive the requirement to use this source shall be submitted to GSA for consideration in accordance with the provisions of § 101-26.100-2.

[36 FR 17424, Aug. 31, 1971, as amended at 38 FR 28566, Oct. 15, 1973]

§ 101-26.301-2 Issue of used, repaired, and rehabilitated items in serviceable condition.

Stock items returned to GSA under the provisions of Subpart 101-27.5 will be reissued to all requisitioning activities without distinction between new, used, repaired, or rehabilitated items in serviceable condition. Requisitioning agencies will be billed for these items at the current GSA selling price.

[38 FR 28566, Oct. 15, 1973]

§ 101-26.302 Standard and Optional forms.

Agencies shall obtain Standard and Optional forms by requisitioning them from GSA unless the Joint Committee on Printing (JCP) has granted authority for direct procurement or unless the forms have been approved by GSA to be stocked and distributed by the promulgating agency.

(a) The content or construction of standard and optional forms shall not be altered or modified, except for planning purposes, without the written approval of the promulgating agency in accordance with Subpart 101-11.8.

(b) Agencies shall not reproduce or reprint standard and optional forms without the approval of the JCP except for limited quantities required for forms management purposes.

(c) Forms or form assemblies which deviate in any manner from those listed in the GSA Supply Catalog are not stocked or distributed by GSA. Agencies requiring such nonstock forms shall prepare and transmit a Standard Form 1, Printing and Binding Requisition, or Standard Form 1-C, Printing and Binding Requisition for Specialty Items, to General Services Administration (3FHF), Washington, D.C. 20407, for review and submission to GPO.

(d) Whenever GSA has granted approval to a promulgating agency to stock and distribute standard forms, printing requisitions for stock replenishment of these items shall be transmitted to the address shown in § 101-26.302(c) on Standard Form 1 or 1-C whichever is appropriate for review and submission to GPO.

(e) Certain standard forms are serially numbered and are to be accounted for to prevent possible fraudulent use. The General Accounting Office (GAO) requires accurate accountability records to be maintained for such items by applicable agencies. Whenever GSA issues accountable standard forms, the receiving agency shall verify to GSA the serial number of forms contained in the shipment by completing the verification card forwarded to them and returning the card to the address preprinted on the face of the card.

(f) Standard and optional forms which are excess to the needs of an agency shall be reported to GSA in the same manner as other excess personal property pursuant to Part 101-43.

(1) Reports by the military services of excess standard and optional forms may be made to the address shown in § 101-26.302(c) by consolidated letter report or submision of Standard Form 120, Report of Excess Personal Property.

(2) Obsolete forms should not be reported but should be determined to be surplus and disposed of under the provisions of Part 101-45.

[35 FR 7301, May 9, 1970, as amended at 42 FR 62485, Dec. 13, 1977]

§ 101-26.303 Out-of-stock items.

Generally, it is more advantageous to agencies if GSA backorders requisitions for out-of-stock items rather than cancels requisitions. Unless notified by agencies not to backorder a requisition, through FEDSTRIP advice codes 2C or 2J, a back order will be established. The agency will be notified of the estimated date that shipment will be made. Upon receipt of the status transaction, the agency shall determine if the estimated shipping date will meet its needs and, as appropriate: (a) Accept the back order, (b) request a suitable substitute item, or (c) request cancellation in accordance with § 101-26.309.

[43 FR 22210, May 24, 1978]

§ 101-26.304 Substitution policy.

In supplying items requisitioned from GSA stock, GSA may substitute items with similar characteristics. Substitute items may be issued from new stock or from returned stock that is in serviceable condition (condition code A) as described in § 101-27.503-1. A notice of intent to substitute will be provided to the ordering activity only if the characteristics of the substitute item differ substantially from the characteristics of the item requisitioned. Ordering activities may prevent substitution by entering advice code 2B (do not substitute) or 2J (do not substitute or backorder) in cc 65-66 of requisitions.

[45 FR 27764, Apr. 24, 1980]

§ 101-26.305 Submission of orders to GSA.

(a) Orders shall be submitted in accordance with the instructions in the FEDSTRIP Operating Guide (FPMR 101-26.2).

(b) Orders in other than FEDSTRIP format shall be submitted:

(1) In original only when for shipment to destinations in the United States, including Hawaii but excluding Alaska.

(2) In accordance with applicable GSA/agency agreements when for shipment to Alaska or for export to destinations outside the United States.

(c) Sufficient funds should be reserved by the requisitioner to cover expenses incurred by GSA in export packing, marking, documentation, etc. GSA will assess a surcharge on all material ordered and delivered to customers in certain overseas areas. The surcharge is a percentage factor of the value of the material shipped. Information on the specific areas and the current percentage of surcharge is included in the GSA Handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings (FPMR 101-26.8). The surcharge is a percentage factor of the value of the material shipped. Information on the current percentage of surcharge may be obtained from the GSA regional office to which orders are submitted.

[30 FR 13826, Oct. 30, 1965, as amended at 42 FR 58748, Nov. 11, 1977; 42 FR 61597, Dec. 6, 1977]

§ 101-26.306 Planned requisitioning for GSA stock items.

In preparing requisitions for GSA stock items, agencies shall follow schedules or cyclical plans for replenishment of stocks so as to reduce the number of repetitive requisitions required while adjusting ordering frequency to comply with the economic order quantity principle. (See § 101-27.102.)

[43 FR 22211, May 24, 1978]

§ 101-26.307 Processing overages, shortages, and damages.

(a) Transportation-type discrepancies shall be processed in accordance with the instructions in Subpart 101-40.7 when the discrepancies are the fault of the carrier and occur while the shipments are in the possession of:

(1) International ocean or air carriers, regardless of who pays the transportation charges, except when shipment is on a through Government bill of lading (TGBL) or is made through the Defense Transportation System (DTS) (Discrepancies in shipments on a TGBL or which occur while in the DTS shall be reported as prescribed in Subpart 101-26.8.); or

(2) Carriers within the continental United States, when other than GSA or DOD pays the transportation charges.

(b) Reporting discrepancies or deficiencies in material or shipments and processing requests for or documenting adjustments in billings from or directed by GSA activities shall be in accordance with the provisions of Subpart 101-26.8.

[41 FR 56320, Dec. 28, 1976]

§ 101-26.308 Obtaining filing cabinets.

Each agency head, after taking actions prescribed in § 101-25.302-2, shall determine agency requirements for filing cabinets. When additional filing cabinets are required, requisitions shall be submitted in FEDSTRIP format to the GSA region supporting the geographic area in which the requisitioning agency is located.

[43 FR 22211, May 24, 1978]

§ 101-26.309 Cancellation of orders for GSA stock items.

When an agency determines that material ordered from GSA is not required, GSA will accept requests for cancellation as long as the items ordered have not been shipped. However, since processing cancellations is costly and interferes with normal order processing, agencies are cautioned to use discretion in requesting cancellation of low dollar value orders. Cancellation of orders may be accomplished by agencies through written, telegraphic, or telephonic communication with the GSA regional office to which the order was sent. However, telephonic communication should be used whenever feasible to forestall shipment of material and subsequent billing by GSA. If material has been shipped, GSA will advise that cancellation cannot be effected and agency requests for return for credit will be processed under the provisions of §§ 101-26.310 and 101-26.311.

[32 FR 11163, Aug. 1, 1967]

§ 101-26.310 Ordering errors.

In accordance with the provisions of this § 101-26.310, GSA may authorize agencies to return for credit material that has been ordered in error by the agency Material shipped in error by GSA is subject to the provisions of the GSA Handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings (FPMR 101-26.8). Credit for material ordered in error will be based on the selling price billed the agency at the time shipment was made to the agency, with the adjustment reflected in current or future billings. GSA Credit will be based on the selling price billed the agency at the time shipment was made to the agency, with the adjustment reflected in current or future billings. Material shall not be returned until appropriate documents authorizing such action are received from the shipping GSA region.

(a) The return of material by an agency, to correct ordering errors, may be authorized and later accepted by GSA: *Provided,*

(1) The value of the material exceeds $25 per line item based on the selling price billed the customer.

(2) Authorization to return material is requested from the shipping GSA region within 30 days (60 days for overseas points) after receipt of the shipment. Requests should always contain a complete explanation of the reasons for the return of the material.

(3) Each item is in "like-new" condition and is identified by a stock number in the current edition of the GSA Supply Catalog.

(4) Each item is identified with a specific purchase order or requisition number.

(5) The condition of the material is acceptable on inspection by GSA. When it is not acceptable, disposition, without credit, will be made by GSA. However, when the condition is attributable to carrier negligence, subsequent credit allowed by GSA will be reduced by the amount to be paid the agency by the carrier for damages incurred.

(6) The merchandise to be returned will not adversely affect the GSA nationwide inventory situation.

(7) The return transportation costs are not excessive in relation to the cost of the material.

(b) Transportation costs on material specifically authorized for return by a GSA regional office will be paid by the customer activity. Claims against carriers for discrepancies in shipment will also be the responsibility of the customer activity in accordance with the provisions of Subpart 101-40.7. When appropriate, GSA will prepare initial documentation to support claim actions.

[35 FR 181, Jan. 6, 1970, as amended at 38 FR 28567, Oct. 15, 1973; 42 FR 58748, Nov. 11, 1977]

§ 101-26.311 Frustrated shipments.

(a) At the request of the ordering agency, GSA may authorize diversion or return for credit of any shipment consigned to an overseas destination which, while en route, cannot be continued onward for any reason and for which the consignee or requisitioning agency cannot provide diversion instructions: *Provided*, The frustration occurs at a water or air terminal and title to the material has not passed from the Government. Frustrated shipments located outside the United States are the responsibility of the consignee or ordering agency. However, GSA will assist the agency whenever possible in disposing of the material when it cannot be utilized by the overseas control area of the agency, e.g., oversea command or AID area.

(b) Requests to GSA for disposition instructions shall be directed to the GSA office which made the shipment. Data provided by the agency shall include the original requisition document number, purchase order number (if any), supplementary addresses, and present location of the frustrated shipment. In addition, the agency should furnish the Government bill of lading number or commercial bill of lading reference, and the carrier's freight or waybill number.

(c) GSA may direct disposition of such material through any of the means listed below. Disposition instructions will include a determination by GSA as to the responsibility for payment of transportation costs.

(1) Shipment of material to another consignee.

(2) Temporary storage pending further instructions.

(3) Return to GSA stock.

(4) Disposal by agency.

(5) Disposition through other means if deemed to be in the best interest of the Government.

(d) GSA will provide required documentation to accomplish the desired action and will, if appropriate, initiate necessary adjustments in billing.

(e) Frustrated shipments involving other than GSA stock items will be treated in a manner similar to that prescribed in this § 101-26.311 on a case by case basis.

[30 FR 11138, Aug. 28, 1965, as amended at 35 FR 12721, Aug. 11, 1970; 42 FR 58748, Nov. 11, 1977]

Subpart 101-26.4—Purchase of Items From Federal Supply Schedule Contracts

SOURCE: 29 FR 15611, Nov. 20, 1964 unless otherwise noted.

§ 101-26.401 Applicability.

All executive agencies shall procure needed articles and services from Federal Supply Schedule contracts in accordance with the provisions of the appropriate Federal Supply Schedule.

(a) The general principles and methods prescribed in this Subpart 101-26.4 apply to all such procurements. Consequently, prior to initiating procurement directly from commercial sources, agencies shall determine whether the required commodities and services or similar commodities and services serving the required functional end-use purpose are available from a Federal Supply Schedule. Agencies shall not solicit bids, proposals, quotations, or otherwise test the market solely for the purpose of seeking alternative sources to Federal Supply Schedules. Further, agencies shall not request formal or informal quotations from Federal Supply Schedule contractors for purposes of contract price comparisons.

(b) The GSA publication entitled "Federal Supply Schedule Program Guide" is a comprehensive source of information on Federal Supply Schedules.

(c) Agencies shall periodically compare prices quoted in Federal Supply Schedules with fully suitable products available from noncontract sources. When lower prices are encountered, this information shall immediately be brought to the attention of the Commissioner, Federal Supply Service (mailing address: General Services Administration (F), Washington, D.C. 20406), with full documentation. The report prescribed by this regulation has been cleared in accordance with

Subpart 101-11.11 and assigned Interagency Report Control No. 0247-GSA-AR. This section does not authorize the purchase of such fully suitable products in place of products quoted in Federal Supply Schedules. When identical products are purchased from noncontract sources at delivered prices that are lower than the prices quoted in Federal Supply Schedules, agencies shall submit copies of the purchase order to GSA in accordance with § 101-26.401-4(f)(3).

[30 FR 4758, Apr. 14, 1965, as amended at 41 FR 6773, Feb. 13, 1976; 43 FR 24533, June 6, 1978; 45 FR 31992, May 15, 1980]

§ 101-26.401-1 Mandatory use of schedules.

Federal Supply Schedules are mandatory to the extent specified in each schedule. Newly developed schedules and certain other schedules may be mandatory to only one or to a small number of agencies as a primary source of supply.

[41 FR 6773, Feb. 13, 1976]

§ 101-26.401-2 Primary source of supply concept.

Each Federal Supply Schedule contains a statement identifying specific agencies in designated geographic areas required to use the established contracts as "primary sources of supply." Agencies so identified shall, except as provided in § 101-26.401-4, use the Schedule on a mandatory basis and the established contracts shall be primary sources of supply for the items involved.

[39 FR 35166, Sept. 30, 1974]

§ 101-26.401-3 Similar items.

(a) In lieu of procuring similar items from any other source, agencies required to use a Federal Supply Schedule shall procure available items from a competitive contract (single award) listed in that Schedule as a primary source, and will procure from a multiple-award Schedule only as a secondary source. Agencies shall not request Federal Supply Schedule contractors to furnish items under the contract having characteristics exceeding those specifically covered by the contract. The above is not applicable to procurement effected under the exceptions to mandatory use criteria as set forth in § 101-26.401-4.

(b) When an agency determines that items available from Federal Supply Schedule contracts will not serve the required functional end-use purpose of the item to be procured, and that a similar item is available from another source which will meet its minimum requirements, a request to waive the requirement to use the Federal Supply Schedule contract shall be submitted to GSA for consideration in accordance with § 101-26.100-2.

[39 FR 35166, Sept. 30, 1974]

§ 101-26.401-4 Exceptions to mandatory use.

(a) *Urgent requirements.* These are individual bona fide delivery requirements of ordering activities for supplies or services which require shorter delivery times than those specified in the respective contracts. When the contract delivery time is longer than the urgent delivery requirements and the ordering activity determines that time permits, the contractor shall be requested by letter, telegram, or telephone (confirmed in writing) to state the best delivery time which can be met. The contractor shall reply to the inquiry within not more than 3 workdays after receipt, and by the same or a faster communications media than the one by which the inquiry was received. If the accelerated delivery time is acceptable to the ordering activity, any resultant orders shall be delivered within this shorter delivery time and in accordance with all other terms and conditions of the contract. When the contractor fails to reply or his best delivery time does not meet the agency requirements, use of the Federal Supply Schedule is non-mandatory.

(b) *Small requirements.* A dollar or quantitative minimum has been stipulated for most Federal Supply Schedules. Agencies are not obligated to order and contractors are not obligated to accept orders below the stipulated dollar and quantitative minimums. However, such orders may be placed by agencies, subject to acceptance by the contractor. Whenever the schedule states that the contractor will accept orders below the stipulated dollar or quantitative minimum, the contractor is obligated to accept such orders. The Ordering Instructions section of the applicable Federal Supply Schedule shall reflect this information.

(c) *Maximum order limitations.* (1) Federal Supply Schedules stipulate maximum dollar limitations above which agencies may not submit orders and contractors may not accept orders.

(2) Unless specified otherwise in the schedules, agencies required to use Federal Supply Schedules, including the Department of Defense (DOD) where the requirement falls with DOD-GSA Interagency Purchase Assignments, shall forward to the GSA support region MIL STRIP/FEDSTRIP requisitions for items included in the schedule which exceed the schedule's applicable maximum order limitations. Non-mandatory users of Federal Supply Schedules, including authorized non-appropriated funded activities and other activities for which GSA is authorized by law to procure, may, at their option, forward MIL STRIP/FEDSTRIP requisitions to the appropriate GSA support region.

(3) In accordance with § 101-26.106, agencies should consolidate their requirements to take advantage of price savings available through separate procurement of quantities exceeding the maximum order limitations. Agencies periodically consolidating requirements for one or more items included in a schedule at an agency headquarters office (national, regional, State, bureau, etc.) shall forward such requisitions to the GSA regional office serving the agency headquarters if the total requirement exceeds the maximum order limitation, unless specified otherwise in the schedule.

(d) *Legislative and judicial agencies.* Except as may be provided by law or by authorized agreement with responsible officials of any agency in the legislative or judicial branches of the Federal Government, no Federal Supply Schedule will include any such agency as subject to its mandatory use provisions.

(e) *Geographic location.* Federal Supply Schedules delineate geographic coverage on a national, zone, regional, or other area basis. In determining exceptions on this basis, the location of the activity to which delivery of the articles will be made or the location at which service will be performed governs, and not the location of the agency office which places the order with the contractor.

(f) *Lower prices for identical items.* (1) Agencies may purchase products from any source when they are available at prices lower than the prices of identical products provided by multiple-award Federal Supply Schedule contracts.

(2) All of the costs and related considerations for lower priced products shall be evaluated, including but not limited to comparisons of warranties, transportation costs (origin and destination), and delivery terms. However, the prohibition in § 101-26.401(a) must be observed.

(3) When identical products are purchased from noncontract sources at delivered prices that are lower than the prices provided by multiple award schedule contracts, the following information shall be furnished to the General Services Administration (FCC), Washington, DC 20406, when the order is issued:

(i) Copy of the purchase order;

(ii) Identification of the Federal Supply Schedule;

(iii) Name of the schedule contractor;

(iv) Schedule contractor number;

(v) Schedule contract price;

(vi) Schedule special item number (SIN); and

(vii) Manufacturer's model and/or part number.

Documentation of paragraphs (f)(3)(ii) through (vii) of this section may be provided by an informal means, such as attachment(s) to the purchase order, annotation directly on the purchase order, or a combination of both. Interagency Report Control Number 0262-GSA-AR has been assigned to this report in accordance with FPMR 101-11.11.

[29 FR 15611, Nov. 20, 1964, as amended at 30 FR 4759, Apr. 14, 1965; 41 FR 6773, Feb. 13, 1976; 41 FR 34630, Aug. 16, 1976; 44 FR

55872, Sept. 28, 1979; 46 FR 17564, Mar. 19, 1981]

§ 101-26.401-5 Non-mandatory use provisions.

(a) Each Federal Supply Schedule contains provisions whereby, in addition to the agencies included under the mandatory use provisions, all other agencies and activities of the Federal Government (including the legislative and judicial branches and other activities for which GSA is authorized by law to procure), may place orders under the schedule, and contractors may accept such orders. This includes those contractors who have been properly authorized, pursuant to FPR Subpart 1-5.9, to use the Federal Supply Schedules. (Also see § 101-26.407.) When a contractor accepts an order tendered under the nonmandatory use provision, whether by written notice, constructive delivery or performance, or fails to return the order within the specified time (usually 3 calendar days after receipt), all provisions of the contract will apply with respect to that order.

(b) Agencies not subject to the mandatory use provisions of Federal Supply Schedules are encouraged to use the schedule contracts as primary sources of supply, except where purchasing activities of these agencies have actual knowledge that the purchase can be made more advantageously to the Government from a source other than the Federal Supply Schedule, after allowing for the burdens and cost of a new procurement under applicable prescribed procedures. Purchasing activities shall not solicit bids, proposals, quotations, or otherwise test the market solely for the purpose of comparing Federal Supply Schedule prices. Where a procurement from a source of supply other than a nonmandatory schedule indicates that such source may be more advantageous to the Government as a general source, the name and address of the supplier and details of the procurement action shall be forwarded to the GSA office issuing the schedule.

(c) When an executive agency determines that one or more non-mandatory schedules are suitable for use by the agency as mandatory sources of supply, the following action shall be taken:

(1) Issue administrative regulations instructing its purchasing activities to use the designated Schedules as primary sources of supply subject to any appropriate exceptions that the agency may prescribe in consonance with § 101-26.401-3 and § 101-26.401-4. Copies of such regulations should be furnished to GSA.

(2) Notify the GSA office issuing the Schedule in order that coordinated arrangements may be developed for inclusion of the agency under the mandatory coverage of future reissuances of the Schedule; thus broadening the area of assured agency participation that can be offered prospective contractors to the end that lower prices, earlier deliveries, and better continuity of supply will result.

[29 FR 15611, Nov. 20, 1964, as amended at 41 FR 6773, Feb. 13, 1976]

§ 101-26.402 General.

§ 101-26.402-1 Schedule method of contracting.

(a) The Schedule method of contracting is used, in the best interest of the Government to simplify the purchase processes for commonly used items which are readily available through the distribution systems of the respective industries without the necessity of definite quantity consolidated buying or handling through a Government warehouse system. Federal Supply Schedule contracts are entered into and Schedules thereof are prepared and issued by, or under assignment from, GSA on a national, zone, regional, or other area basis, and are supervised by or under the general direction of GSA.

(b) When a Federal Supply Schedule is assigned to another executive agency for preparation and issue, appropriate notification of the assignment will be given to all agencies. Accordingly, the term "GSA office issuing the Schedule" or similar terminology as used in this Subpart 101-26.4 shall be deemed to include the office of another executive agency identified in the Schedule involved as the preparing office.

§ 101-26.402-2 Schedule features.

(a) Federal Supply Schedules are published in catalog style and list under major commodity or service classifications the articles or services available from the contractors named therein. Some schedules involve the use of the contractors' catalogs and pricelists and specify the extent to which such catalogs and pricelists are applicable. Changes to schedules are furnished all agency offices receiving the basic schedule.

(b) Federal Supply Schedules specify that agencies of the Federal Government shall or may, as applicable, issue delivery orders direct to contractors listed in the schedule, receive the shipment, and make payment direct to the contractors without referring the transaction to GSA. The contracts provide for appropriate action in the event of delinquency or default on the part of the contractor. (See § 101-26.403-3.)

[41 FR 6773, Feb. 13, 1976]

§ 101-26.402-3 Distribution.

Agency offices desiring to receive current copies of Federal Supply Schedules and catalogs or to be placed on distribution lists for Federal Supply Schedules and catalogs shall execute GSA Form 457, FSS Publications Mailing List Application (illustrated at § 101-26.4902-457), and forward the completed GSA Form 457 to General Services Administration, Centralized Mailing List Services, Building 41, Denver Federal Center, Denver, CO 80225. Copies of GSA Form 457 may also be obtained from the above address.

[41 FR 6773, Feb. 13, 1976]

§ 101-26.402-4 Schedule identification.

The GSA publication entitled "Federal Supply Schedule Program Guide" includes a listing of schedules and information pertinent thereto with the distribution code number for each schedule and related catalog. Accordingly, agency offices should consult the latest edition of the "Federal Supply Schedule Program Guide" before submitting requests for schedules and catalogs as provided in § 101-26.402-3.

[43 FR 24533, June 6, 1978]

§ 101-26.402-5 Contract provisions.

(a) Each Federal Supply Schedule provides information as to the contractual provisions with which agencies should be familiar in order to properly administer orders with contractors.

(b) Standard Form 32, General Provisions (Supply Contract) (illustrated at § 1-16.901-32), and GSA Form 1424, GSA Supplemental Provisions (illustrated at § 101-26.4902-1424), are incorporated by reference in Federal Supply Schedule contracts. GSA Form 2891, Instructions to Users of Federal Supply Schedules (illustrated at § 101-26.4902-2891), is incorporated by reference in Federal Supply Schedules and summarizes certain contract provisions and provides ordering information. Special provisions pertinent to a particular schedule and any necessary exceptions to the general provisions are printed in the schedule.

[32 FR 15754, Nov. 16, 1967, as amended at 43 FR 24533, June 6, 1978]

§ 101-26.403 Performance and default under Federal Supply Schedule contracts.

§ 101-26.403-1 Responsibilities.

While GSA awards Federal Supply Schedule contracts and exercises general supervision over such contracts, it is the responsibility of agencies whose requirements are included in the contracts to place orders with contractors, make payment, and, in the first instance, determine whether performance meets the contract terms. Agencies whose orders are accepted by the contractor pursuant to the optional use provision have like responsibilities. Subject to the provisions of the contracts and the conditions stated in this Subpart 101-26.4, ordering offices should deal directly with contractors concerning their performance of the contract terms, and should accept or reject the supplies or services, make price adjustments for nonconforming supplies or services, or seek replacements, and, in case of default, terminate purchase orders, purchase from other sources, and charge contractors with resulting excess costs. In certain instances, Federal Supply Schedule contracts will provide for inspection at source, prior to shipment, by GSA. When the Federal Supply Schedule states that source inspection will be provided by GSA, ordering offices are relieved of dealing directly with contractors concerning specification compliance and acceptance or rejection of the supplies or services.

§ 101-26.403-2 Inspection.

(a) *Acceptance inspection.* (1) Acceptance inspection of supplies and services is necessary to ensure compliance with applicable specifications and other contractual requirements. Arrangements for inspection shall be the responsibility of the ordering agency except when the Federal Supply Schedule specifically provides for source inspection by GSA. When a Federal Supply Schedule does not provide for source inspection by GSA, the ordering agency may arrange for assistance from GSA in source inspection provided that the schedule is covered by specifications or technical descriptions. In determining the need for assistance from GSA in source inspection, the ordering agency shall consider the volume of the procurement, complexity of the items, and the past performance of the supplier. When the Federal Supply Schedule provides for source inspection by GSA or an agency desires assistance from GSA in source inspection of items covered by specifications or technical descriptions, the ordering agency shall furnish two copies of the purchase order or delivery order to the regional Director, Quality Control Division, Federal Supply Service, located at the GSA regional office serving the geographic area where the supplier is located or from where shipment will be made. The order shall indicate that inspection shall be performed at source, prior to shipment, by the Quality Control Division of the appropriate GSA regional office.

(2) A copy of the GSA Form 308, Notice of Inspection, executed by the GSA Quality Control representative, will inform other than military consignees of acceptance and/or rejection determination. DD Form 250, Department of Defense Materiel Inspection and Receiving Report, will be used to inform military consignees of acceptance determination, and GSA Form 308, Notice of Inspection, will be used to inform the military consignees of rejection determination.

(3) Material which has been inspected by GSA and determined to be in compliance with specifications and technical contract requirements (quality inspection) shall not be reinspected by another agency for that purpose. Examination of delivery shall be limited to determination of quantity and condition upon receipt by consignee.

(b) *Nonconforming supplies or services.* (1) When inspection is performed by an activity other than GSA, the ordering agency shall report to the GSA office executing the contract all significant instances where nonconforming supplies and services are received. Ordering officers have the right either to reject supplies defective in material or workmanship, or otherwise not in conformity with contract requirements, or to require their removal for correction or correction in place, by and at the expense of the contractor. Ordering offices may accept nonconforming supplies and services and pay therefor at a proper reduction in price in accordance with the contract provisions, or may terminate the right of the contractor to proceed further under the purchase order. Unless the contractor corrects or replaces supplies within the delivery schedule, the ordering office may declare the contractor in default and purchase the supplies elsewhere against the contractor's account.

(2) When supplies have been inspected and rejected at source by GSA and replacement or correction will not be made by the contractor, the notice of rejection will so inform the ordering agency. The notice will contain appropriate recommendations regarding acceptance at a proper reduction in price or termination of the contractor's right to proceed and purchase elsewhere in accordance with § 101-26.403-5.

(3) Agency reports of nonconforming supplies ordered through Federal Supply Schedules and inspected at source by GSA shall be submitted to GSA in accordance with the provisions of the GSA Handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings (FPMR 101-26.8).

[29 FR 15611, Nov. 20, 1964, as amended at 40 FR 31223, July 25, 1975; 42 FR 58748, Nov. 11, 1978]

§ 101-26.403-3 Delinquent performance.

Where the contractor fails to perform in accordance with the provisions of the contract, ordering offices may afford a further opportunity to perform or terminate the right of the contractor to proceed further under the purchase order, declare the contractor in default on the order, and purchase elsewhere against his account. Should the contractor allege that the failure in performance was due to an excusable cause precluding assessment of excess costs under the provisions of the contract, the GSA office executing the Schedule contract shall be notified promptly. In the absence of a decision by the contracting officer executing the contract, or by the Administrator, or his duly authorized representative, on appeal, pursuant to such notice that the failure is excusable, the ordering office is free to charge against the contractor any excess cost resulting from the default. When the ordering office is aware that the defaulting contractor has alleged the failure to be excusable, it may elect to postpone the assessment of excess costs until a decision is made in order to avoid unnecessary accounting actions.

§ 101-26.403-4 Disputes.

All disputes concerning questions of fact arising under the contract which cannot be settled satisfactorily between the ordering office and the contractor shall be decided by the GSA contracting officer or by the Administrator, or his duly authorized representative, on appeal.

§ 101-26.403-5 Default; ordering office.

Any ordering office may, in respect to any one or more purchase orders placed by it under a contract, declare the contractor in default in accordance with the applicable contract provisions. However, before declaring a contractor in default, it is suggested that ordering offices should ordinarily notify the contractor in writing that unless satisfactory performance occurs within a specified time, which should allow a reasonable time for performance, the ordering office will terminate his right to proceed further under the purchase order and he will be held liable for any excess costs resulting from purchasing the supplies or services elsewhere. Such notice would not ordinarily be given when the default involves an attempted fraud on the United States, or when it would be obviously futile as, for example, when the contractor has already declined to perform. Where excess costs are anticipated, the ordering office may likewise withhold sufficient funds otherwise due the contractor as offset security. Ordering offices shall endeavor to minimize excess costs to be charged against the contractor and to collect by check or set off any excess costs owed (see § 1-8.602-6). The GSA office executing the contract shall be notified of all cases where an ordering office has declared a Federal Supply Schedule contractor in default.

§ 101-26.403-6 Default; GSA.

GSA may declare a contractor in default on an overall basis for any or all items covered by the contract, in accordance with the applicable contract provisions, as distinguished from ordering office action on individual orders. When notified of such action by GSA, ordering offices shall thereafter refuse to accept further performance by the contractor, shall not place further purchase orders with him, and shall purchase against the account of the contractor from replacing contractors designated by GSA, or in such other manner as directed by GSA.

§ 101-26.403-7 Failure to collect excess costs.

Ordering offices shall report to the GSA office executing the Federal Supply Schedule contract involved those instances where they have been unsuccessful in collecting excess costs which have accrued against a defaulting contractor. Reports shall be made within sixty days from date of final payment to the new contractor from whom the replacement purchase was made and may be in letter form. Such reports shall provide complete information so as to identify properly the transaction and furnish necessary data, such as the name of the defaulting contractor, contract number, item number and description, Schedule price, and the amount of excess costs to be collected. In addition, complete information shall be reported concerning the supplier from whom substitute purchase was made, such as the name of the supplier, purchase price, order number or numbers on which payment was made, and contract number, if any. The GSA office will consolidate such data as reported and, in the absence of an available offset in that office, will submit such data through channels to the General Accounting Office for collection.

§ 101-26.404 [Reserved]

§ 101-26.405 Automatic data processing equipment.

The procurement of automatic data processing equipment, software, maintenance services, and supplies, is governed by Subpart 1-4.11 of this title.

[42 FR 62485, Dec. 13 1977]

§ 101-26.406 U.S. Government National Credit Card for use in obtaining service station deliveries and services.

§ 101-26.406-1 General.

(a) Standard Form 149, U.S. Government National Credit Card (illustrated in § 101-26.4901-149), is authorized for use by Federal agencies to obtain authorized services and supplies at service stations dispensing items provided by contractors listed in the Defense Fuel Supply Center publication "Government Vehicle Operators Guide—Guide to Service Stations for Gasoline, Oil, and Lubrication" (DFSC H 4280.1). Activities requiring copies of the publication should submit requests to: Commander, Defense Fuel Supply Center, Attention: DFSC:OD, Cameron Station, Alexandria, VA 22314.

(b) Standard Form 149 is the only Government-wide credit card approved for use by Federal agencies for the procurement of gasoline and services at service stations dispensing items provided by the contractors listed in the Defense Fuel Supply Center publication referenced in paragraph (a) of this section. However, agencies need not use Standard Form 149 for motor vehicles used for purposes in which identification as Government vehicles would interfere with the performance of the functions for which the vehicles were acquired and are used. (See § 101-38.602.)

(c) Information concerning billing data, expiration dates to be embossed on Standard Form 149, and administrative control of the credit card program is in Subpart 101-38.12 and the Federal Supply Schedule FSC 75, Part VII.

[46 FR 3024, Jan. 13, 1981]

§§ 101-26.406-2—101-26.406-4 [Reserved]

§ 101-26.406-5 Methods of obtaining Standard Form 149, U.S. Government National Credit Card.

(a) All agency requests for embossed Standard Form 149 shall be forwarded to the contractor in the format specified in Federal Supply Schedule 75, Part VII. Requests should be submitted with a GSA Form 300, Purchase Order; DD 1155, Order for Supplies or Service, Request for Quotation; or the purchase order normally used by the ordering agency. Unembossed or partially embossed Standard Forms 149 shall not be provided. Specific ordering instructions are in the Federal Supply Schedule FSC 75, Part VII; however, the following information will assist agencies ordering embossed Standard Form 149.

(1) Any order that does not include all of the required data elements or that contains inaccurate information will be returned to the sender. Cards ordered for replacement must be in the exact format and contain the exact information as the original card, including spaces, punctuation, and character field.

(2) The contractor will bill the ordering agency directly for embossing services and mailing charges.

(3) The type of format to be used when embossing Standard Form 149 shall conform with the requirements of the Federal Supply Schedule FSC 75, Part VII.

(4) Agencies are encouraged to use the blanket purchase arrangement (BPA), thus eliminating the costly processing of individual purchase orders. Credit cards can then be ordered against the BPA by letter, giving complete embossing information and referencing the BPA number.

(5) Instructions for requisitioning Standard Form 149 by means of electronic data transmission will be made available upon request to the Federal Fleet Management Division (TMM), General Services Administration, Washington, DC 20406.

[46 FR 3025, Jan. 13, 1981]

§ 101-26.406-6 Controlled shipment of U.S. Government National Credit Cards.

Because the embossing contractor is required to maintain, on file, a receipt for all credit card shipments, each shipment of credit cards shall be made using "return receipt" procedures. Costs incurred by the embossing contractor in ensuring the safe, controlled shipment of all credit cards shall be paid by the ordering agency.

[46 FR 3025, Jan. 13, 1981]

§ 101-26.406-7 Government Printing Office waiver.

A waiver has been issued by the Government Printing Office to GSA for the procurement of the printing of the Standard Form 149.

§ 101-26.407 Procurement of security equipment by Government fixed-price prime contractors and subcontractors.

[41 FR 34630, Aug. 16, 1976]

§ 101-26.407-1 General.

(a) Based on recommendations of the Interdepartmental Committee on Internal Security, it has been determined essential that security equipment be made available for purchase from GSA procurement sources by all Government contractors and subcontractors (at any tier) who are required to maintain custody of security classified records and information under any type of contract or subcontract.

(b) In accordance with Section 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481), the Administrator of General Services has determined that the purchase of security equipment from GSA procurement sources by Government prime contractors and their subcontractors for the protection of security classified information represents procurement for the "use of executive agencies" under the statute.

[41 FR 34630, Aug. 16, 1976]

§ 101-26.407-2 Applicability.

The provisions of this § 101-26.407 apply only to the purchase of security equipment under a GSA procurement program by fixed-price prime contractors and lower tier subcontractors under any type of contract. These provisions do not apply to the purchase of security equipment by cost-reimbursement type prime contractors; however, such purchases are subject to the provisions of Subpart 1-5.9.

[43 FR 22211, May 24, 1978]

§ 101-26.407-3 Procedure for ordering security equipment.

(a) Cognizant security offices will arrange to notify prime contractors and subcontractors requiring security equipment for the protection of security classified information that, subject to the conditions described in this § 101-26.407-3 and in accordance with procedures included in Federal Supply Schedule, FSC Group 71, Part XI, Sections A and B, they may purchase such equipment under the applicable GSA procurement program as provided in § 101-26.507.

(b) Purchase orders for security cabinets under Federal Supply Schedule contracts submitted by fixed-price prime contractors or subcontractors under any type of contract shall contain a statement that such cabinets are needed for housing Government security classified information and that the purchase of such cabinets is required to comply with the security provision of a Government contract.

(c) A statement substantially as follows shall be placed on orders for security cabinets placed with Federal Supply Schedule contractors:

> In the event of any inconsistency between the terms and conditions of this order and those of your Federal Supply Schedule contract, the latter will govern.

[31 FR 10923, Aug. 17, 1966, as amended at 36 FR 2600, Feb. 9, 1971; 41 FR 34630, Aug. 16, 1976]

§ 101-26.407-4 Use of security cabinets.

Security cabinets purchased in accordance with this § 101-26.407 shall be used as prescribed by the cognizant security office.

[31 FR 10923, Aug. 17, 1966]

§ 101-26.408 Multiple-award contracts.

[30 FR 11603, Sept. 10, 1965]

§ 101-26.408-1 Description.

(a) Multiple-award Federal Supply Schedules cover contracts made with more than one supplier for comparable items at either the same or different prices for delivery to the same geographical area.

(b) Federal Supply Schedule contracts are made on a multiple-award basis when doing so is to the advantage of the Government in providing effective utilization of industry production and distribution facilities or in providing selectivity from among comparable items when there are no prescribed standards or specifications.

[30 FR 11603, Sept. 10, 1965, as amended at 41 FR 6774, Feb. 13, 1976]

§ 101-26.408-2 Procurement at lowest price.

Each purchase of more than $500 per line item made from a multiple-award schedule by agencies required to use these schedules shall be made at the lowest delivered price available under the schedule unless the agency fully justifies the purchase of a higher priced item. Purchases costing $500 or less per line item should also be made at the lowest delivered price under the schedule; however, justification for the purchase of higher priced items is not required. Agencies not required to use schedules, but which choose to do so, are apprised of the advisability of fully justifying purchases costing more than $500 per line item when the items are not the lowest priced available on the schedule.

[41 FR 34630, Aug. 16, 1976]

§ 101-26.408-3 Justifications.

(a) Justifications for purchases made at prices other than the lowest delivered price available should be based on specific or definitive needs which are clearly associated with the achievement of program objectives. Mere personal preference cannot be regarded as an appropriate basis for a justification. Justifications should be clear and fully expressed. Recital of or reference to one of the factors set forth in paragraph (b) of this § 101-26.408-3 is not sufficient.

(b) The following are examples of factors that may be used in support of justifications when used with assertions that are fully set forth and documented.

(1) Special features of one item not provided by comparable items are required in effective program performance.

(2) An actual need exists for special characteristics to accomplish identified tasks.

(3) It is essential that the item selected be compatible with items or systems already existing within using offices.

(4) Trade-in considerations favor a higher priced item and produce the lowest net cost.

(5) Time of delivery in terms of actual need cannot be met by a contractor offering a lower price.

(6) Justifications which incorporate features of the following examples must be based on objective factors which adequately establish the advantages inherent in purchase of the higher priced item when:

(i) Probable life of the item selected as compared with that of a comparable item at a lower cost is sufficiently greater so that the additional purchase price is economically warranted.

(ii) Warranty conditions of a higher priced item are sufficiently advantageous to justify the added cost.

(iii) Greater maintenance availability, lower overall maintenance costs, or the elimination of problems anticipated with respect to machines or systems, especially at isolated use points, will produce longrun savings greater than the difference in purchase prices.

[30 FR 11603, Sept. 10, 1965, as amended at 43 FR 22211, May 24, 1978]

§ 101-26.408-4 Placement of orders against multiple-award schedules.

(a) The possibilities of selectivity among items listed in multiple-award Federal Supply Schedules do not relieve agencies of the responsibility to place orders at the lowest delivered price available (after application of the Buy American differential, when appropriate) unless there are factors for consideration which definitely justify the purchase at other than the lowest price. The responsibility exists whether the value of an order is more or less than the applicable open market limitation. When purchases are made at other than the lowest delivered price available under the applicable Federal Supply Schedule, the delivery order file or other appropriate file should contain a complete justification for the purchase. When an agency, pursuant to an agreement with GSA, submits a request for GSA to purchase an item under a Federal Supply Schedule which is other than the lowest priced item on the schedule, the request shall be accompanied by a complete justification to support the procurement. Justification for such purchases need not accompany requests from overseas activities for overseas deliveries. However, GSA will construe such requests to mean that the justification is in fact in the ordering installation's file.

(b) Where two or more items at the same delivered price will meet the ordering agency's needs equally well, selection should be based on preference for the item of a labor surplus area concern or a small business concern. In making a selection on that basis, the same order of priority shall be used as that established in paragraph (a) of FPR 1-2.407-6, Equal low bids. In making such a selection, the information in the Federal Supply Schedule as to the business size status or points of production of contractors may be used for preliminary, but not conclusive, determination as to whether small business or labor surplus area policies might be furthered through preferential award of the order. The extent to which additional and current information is obtained by an ordering agency is left to the discretion of the agency, taking into account the size of the order and other factors which the agency considers pertinent.

(c) GSA self-service stores are immediate sources of supply for Federal agencies and are responsible for providing administrative supplies and other selected items to meet official agency needs. In furtherance of this responsibility, these stores stock a variety of high demand items including a number which may be other than a lowest priced item available from a multiple-award Federal Supply Schedule. In such instances the GSA self-service stores are exempted from the requirements of this § 101-26.408-4 pertaining to the inclusion of justification of purchase in the delivery order file. When an agency makes a purchase of more than $500 per line item from a GSA self-service store and which is other than a similar lowest priced item available from a multiple-award schedule, GSA will assume that a justification has been prepared and made a part of the buying agency's purchase file. Availability of products, regardless of the total amount of the line item price, does not relieve an agency of the responsibility to select the lowest priced item commensurate with the needs of the agency.

[30 FR 11603 Sept. 10, 1965, as amended at 41 FR 6774, Feb. 13, 1976; 42 FR 1032, Jan. 5, 1977]

§ 101-26.408-5 Price reductions during contract period.

Each Federal Supply Schedule contract involving multiple awards contains a clause entitled "Price Reductions." In addition, Federal Supply Schedules contain an instruction to using agencies entitled "Notice of Purchase at Reduced Price," which provides that GSA contracting officers be notified of such reductions. Agencies shall issue appropriate implementing procedures to ensure that such notifications are promptly furnished to GSA contracting officers.

[41 FR 6774, Feb. 13, 1976]

Subpart 101-26.5—GSA Procurement Programs

§ 101-26.500 Scope and applicability of subpart.

(a) This subpart prescribes policies and procedures relating to GSA procurement programs other than the GSA stock and the Federal supply schedule programs. Also excluded are the policies and procedures relating to the procurement of automatic data processing equipment and services set forth in part 101-36.

(b) The policies and procedures in this subpart 101-26.5 are applicable to executive agencies except as otherwise specifically indicated. Federal agencies other than executive agencies may participate in these programs and are encouraged to do so.

[43 FR 32767, July 28, 1978]

§ 101-26.501 Purchase of new motor vehicles.

(a) With respect to the procurement of new sedans, station wagons, and light trucks other than those to be used for law enforcement, it shall be the policy to procure standard vehicles (unless other than standard vehicles are specifically required) as follows: Sedans, class IA-small, class IB-subcompact, or class II-compact; station wagons, class IB-subcompact or class II-compact vehicles, as described in Federal standard No. 122; and light trucks as defined in Federal standard Nos. 292 and 307. (Federal standard Nos. 122, 292, and 307 as used in this section mean the latest editions and include any interim standard being used temporarily as a replacement.) Requisitions submitted to GSA for motor vehicles shall be in conformance with the requirements of subpart 101-38.13.

(1) Standard passenger vehicles as defined in Federal Standard No. 122 are considered to be completely equipped for ordinary operation and are subject to the statutory maximum price limitation.

(2) Items (vehicles) included in Federal Standard No. 122 other than those listed as standard are considered to be equipped with additional systems and equipment for passenger vehicles.

(b) Requisitions submitted to GSA for new passenger vehicles shall contain a certification by the agency head or a designee that the acquisition is in conformance with Pub. L. 94-163 and Executive Order 12003. The certification may be placed on the requisition or on an appropriate attachment thereto. Agency passenger vehicle requisitions omitting this certification will not be processed until such certification is received. Agencies requiring other than standard sedans and station wagons shall justify the need for these vehicle requirements and retain the justification in their files.

(c) Light trucks shall be requisitioned in accordance with the provisions of this § 101-26.501 and Federal Standard Nos. 292 (Tables I through VIII) and 307 (Tables I through XI), as applicable. The agency head or his designee shall certify on the requisition or on an appropriate attachment thereto that each light truck requisitioned represents the minimum capacity/performance vehicle which will satisfy the requirements based on overall safety, economy, and efficiency.

(d) Selection of additional systems or equipment in vehicles shall be made by the requiring agency and shall be based on the need to provide for overall safety, efficiency, economy, and suitability of the vehicle for the purposes intended pursuant to § 101-25.304.

(1) The essentiality of such systems or equipment shall be weighed against the economic factors involved, the potential benefits to be derived therefrom, and the impact on the fuel consumption characteristics of the vehicle.

(2) Additional systems or equipment requested to be purchased by GSA will be construed to have been determined essential for the effective operation of the vehicle involved by the agency head or a designee. When systems or equipment other than those listed in Federal standards are requested, these systems or equipment shall be consid-

ered and treated as deviations under § 101-26.501-3(b).

[39 FR 37379, Oct. 21, 1974, as amended at 41 FR 34631, Aug. 16, 1976; 43 FR 32767, July 28, 1978]

§ 101-26.501-1 General.

Except as provided for the Department of Defense (DOD) in paragraph (a) of this section, each executive agency shall submit to GSA for procurement its orders for purchase in the United States of all new passenger motor vehicles (FSC 2310), trucks or truck tractors (FSC 2320), trailers (FSC 2330) van type (with payload of not less than 5,000 nor more than 50,000 pounds), and firetrucks and firefighting trailers (FSC 4210). Specifically included are sedans, station wagons, carryalls, ambulances, buses, and trucks, including trucks with specialized mounted equipment, truck chassis with special purpose bodies, and all van-type trailers (with payload of not less than 5,000 nor more than 50,000 pounds).

(a) DOD shall submit to GSA for procurement its orders for purchase in the United States of all commercial-type passenger motor vehicles (FSC 2310), including buses and trucks (FSC 2320) up to 10,000 pounds gross vehicle weight (GVW) except the following:

(1) Buses, convertible to ambulances;

(2) Trucks, convertible to ambulances; and

(3) Trucks, 4 x 4, dump, 9,000 GVW with cut-down cab.

(b) When it is determined that specialized requirements for passenger motor vehicles and trucks indicate the need for procurement from sources other than GSA, a request for waiver justifying the procurement shall be submitted in writing to the General Services Administration (FYP), Washington, D.C. 20406. GSA will notify agencies in writing whether or not a waiver has been granted. Justification for special purpose trucks may be based on a description of the vehicle having unique characteristics such as a special purpose body or equipment that may require close supervision by agency personnel to ensure proper installation of the equipment by the contractor; e.g., when a medical van is to be equipped with Government or contractor-supplied equipment. Requests for procurement through sources other than GSA will be handled on an individual basis considering the urgency of the need of the requirement and provided full justification is submitted therefor.

[38 FR 2176, Jan. 22, 1973, as amended at 40 FR 57216, Dec. 8, 1975; 43 FR 32767, July 28, 1978]

§ 101-26.501-2 Consolidated purchase program.

(a) To achieve maximum benefits and economies, GSA makes monthly consolidated procurements of all motor vehicle types plus four volume procurements each year as follows:

(1) One volume procurement of sedan and station wagons of the types covered by Federal Standard No. 122 and related specifications for civilian agencies and for DOD activities; and

(2) Three volume procurements of light trucks of the types covered by Federal Standard No. 307 for civilian agencies and of similar types covered by military specifications for DOD activities.

(b) Such volume consolidated purchases are made subsequent to consolidation of requirements in accordance with the dates set forth in § 101-26.501-4(a). To obtain the greatest possible savings, approximately 75 percent of an agency's total annual requirements should be included in these volume procurements.

(c) Requirements for (1) sedans, station wagons, and light trucks not covered by Federal Standard No. 122, Federal Standard No. 307, or similar types not covered by military specifications or (2) those covered by such standards and specifications but which are received after the consolidation dates shown in § 101-26.501-4(a) will be consolidated and procured on a monthly basis. Consolidated monthly procurement also will be effected for light trucks of the type covered by Federal Standard No. 292 or similar types covered by military specifications and similar type light trucks not included in such standard or military specifications.

(d) Requirements for sedans, station wagons, and light trucks not covered by Federal Standard No. 122, Federal Standard No. 292, or Federal Standard No. 307 shall conform with the provisions of § 101-26.501-3 (a), (b), and (c).

[36 FR 19906, Oct. 13, 1971, as amended at 43 FR 32767, July 28, 1978]

§ 101-26.501-3 Submission of orders.

Orders for all motor vehicles shall be submitted on GSA Form 1781, Motor Vehicle Requisiton—Delivery Order—Invoice, or DD Form 448, Military Interdepartmental Purchase Request (MIPR), to the General Services Administration (FY), Washington, D.C. 20406, and shall contain required FEDSTRIP data for mechanized processing. The Department of Defense shall ensure that appropriate MILSTRIP data are entered on DD Form 448.

(a) Requisitions covering vehicle types not included in Federal Standard No. 122 or Federal Standard No. 307, in a military specification, or in an agency specification on file with GSA shall contain complete descriptions of the vehicles required, the intended use of the vehicles, and terrain where the vehicles will be used.

(b) Requisitions for vehicles within the category of Federal Standard No. 122 or Federal Standard No. 307 but for which deviations from such standards are required, unless already waived by the Commissioner, Federal Supply Service, shall include with the requisition a justification supporting each deviation from the standards and shall contain a statement of the intended use of the vehicles, including a description of the terrain where the vehicles will be used. Prior approval of deviations shall be indicated on the requisition by citing the waiver authorization number.

(c) GSA Form 1781, Motor Vehicle Requisition—Delivery Order—Invoice (illustrated at § 101-26.4902-1781), has been specifically designed for agency use to expedite ordering of all vehicles. GSA Form 1781 is also used by GSA as a purchase order and by the consignee as a receiving report. Agencies are requested to use GSA form 1781 as a single-line-item requisition for nonstandard as well as standard vehicles. When ordering standard vehicles, the appropriate item number for passenger vehicles equipped to meet specific operational needs may be selected from the applicable table in Federal Standard No. 122. Additional systems and equipment may be added by inserting in the "Standard Option(s)" portion of block 9 of the form the appropriate code for the selected items from the table in the standard. When a vehicle equipped as listed in Federal Standard No. 122 includes items which are not required, the item number of the standard vehicle representing the minimum wheelbase required should be selected. All additional systems or equipment required should be identified by inserting in the appropriate portion of block 9 of GSA form 1781 the applicable codes from the table in the standard listing the additional systems or equipment. When ordering nonstandard vehicles or options, the instructions on the reverse of GSA form 1781 shall be followed. Submission of GSA form 1781, properly completed, will satisfy the requirements regarding the submission of requisitions as set forth in paragraph (a) of this section.

(d) Each requisition shall indicate the appropriation/fund code to be charged and must be signed by an officer authorized to obligate cited funds.

(e) Separate requisition shall be submitted for each vehicle category and consignee.

[34 FR 8163, May 24, 1969, as amended at 36 FR 19907, Oct. 13, 1971; 36 FR 20876, Oct. 30, 1971; 36 FR 21284, Nov. 5, 1971; 41 FR 34631, Aug. 16, 1976; 43 FR 32767, July 28, 1978]

§ 101-26.501-4 Procurement time schedules.

(a) *Volume consolidated purchases.* Requisitions covering vehicle types included in Federal Standard No. 122 or Federal Standard No. 307 received before the consolidation dates shown in the time schedule of this paragraph (a) will be consolidated for volume procurement unless there is included a statement justifying the need for delivery earlier than the delivery times indicated in § 101-26.501-4(d). Requisitions containing a statement of justification will be handled on a monthly basis in accordance with § 101-26.501-4(b)(1).

TIME SCHEDULE FOR VOLUME CONSOLIDATION

Vehicle category	Standard sedans and station wagons	Standard light trucks (4x2)
Sedans, station wagons, and trucks of types covered by Federal Standard No. 122 or Federal Standard No. 307.	End of model year availability to Nov. 15.	July 1 to August 15. Aug. 16 to Dec. 31. Jan. 1 to Apr. 15.

NOTE: Requirements not included on the above volume consolidated solicitations or optional increase provisions thereto will, upon request of the requestioning agency, be purchased on a monthly consolidated basis where possible. Included in this category are requirements held over from one fiscal year to another because of manufacturer model year changeover.

(b) *Monthly consolidated purchases.* (1) Requirements for vehicles not received by GSA in time for inclusion in the volume procurements as indicated in § 101-26.501-2(b) must be received by GSA by the dates indicated in the schedule set forth below in this § 101-26.501-4(b)(1). Requirements received after these dates will be carried over to the following month's purchase unless they are accompanied by a request that they be retained for inclusion in the next volume procurement. In the interest of timely and orderly preparation of solicitations, ordering agencies are urged to submit each requirement as soon as it is finalized instead of holding it for submission with later requirements. Such requisitions need not specify a delivery date since delivery will be in accordance with delivery times indicated in § 101-26.501-4(d). Requests for special handling of other than strictly emergency requirements shall not be submitted.

TIME SCHEDULE

Vehicle category	Monthly consolidation dates
(i) Sedans, station wagons, and trucks of types covered by Federal Standard No. 122 or Federal Standard No. 307.	10th of each month.
(ii) Passenger carrying vehicles, light trucks of types not covered by Federal Standard No. 122 or Federal Standard No. 307, and ambulances.	20th of each month.
(iii) Buses, trucks (other than light trucks in category (ii) above), and trailers of not less than 5,000 lbs.	Last day of each month.
(iv) All other categories and types of vehicles.	Last day of each month.

(2) Solicitations issued in June for the consolidated purchase of vehicles in categories (i), (ii), and (iii) of § 101-26.501-4(b)(1) will cover only the requirements of those executive agencies whose requisitions are required by § 101-26.501-1 to be placed with GSA. (Submission of requirements for vehicles in categories (i), (ii), and (iii) is mandatory to the extent provided in § 101-26.501-1.)

(3) With respect to categories (i) and (ii) of § 101-26.501-4(b)(1), no assurance can be given as to price and time of delivery of vehicles on requisitions received by GSA after the 15th of April. This is because of the industry practice of closing out the production of the current year's model and retooling for new models. Agencies should bear this in mind when programing their requirements. Agencies submitting requisitions for sedans and station wagons that cannot be placed on contract before the end of the fiscal year in which submitted will be notified by GSA.

(c) *Emergency requirements.* Emergency requirements will receive special handling only when the requisitions are accompanied by adequate justification for individual purchase action. Every effort will be made to meet the delivery date specified in the requisition.

(d) *Delivery time.* Delivery times for motor vehicle requirements submitted for monthly consolidated and volume consolidated purchases will range from 240 to 330 days after final dates for consolidation of requisitions provided in § 101-26.501-4 (a) and (b)(1). Included in delivery time estimates are 90 to 105 days required for soliciting and receiving bids, 30 to 45 days for evaluation and award of contracts, and 120 to 180 days from date of award for delivery of vehicles to the consigned locations. For buses, ambulances, and other special duty vehicles procured under monthly consolidated purchases, 240 to 270 days from date of award are usually required to effect delivery. However, special purpose vehicles with unique characteristics, such as certain types of firetrucks, may require longer delivery. In such instances, every effort will be made by GSA to facilitate deliveries and keep the requisitioning agencies informed of any unauthorized delay.

[34 FR 8163, May 24, 1969, as amended at 36 FR 19907, Oct. 13, 1971; 39 FR 37197, Oct. 18, 1974; 43 FR 32768, July 28, 1978]

§ 101-26.501-5 [Reserved]

§ 101-26.501-6 Forms used in connection with delivery of vehicles.

(a) *GSA Form 1398, GSA Purchased Vehicle.* This form is used by the contractor to indicate that preshipment inspection and servicing of each vehicle has been performed. The contractor is required to complete GSA Form 1398 (illustrated at § 101-26.4902-1398) and affix it, preferably, to the lock face or door frame of the right front door after the final inspection. The form should be left in place during the warranty period to permit prompt identification of vehicles requiring dealer repairs pursuant to the warranty.

(b) *Standard Form 368, Quality Deficiency Report (Category II).* GSA is constantly striving to improve customer service and the quality of motor vehicles for which it contracts. To inform contractors of the deficiencies noted during the life of the vehicles, Standard form 368 shall be prepared by the consignee and sent to GSA describing details of vehicle deficiency and action taken for correction. Procedures for documenting and reporting quality deficiencies are set forth in the GSA Handbook, Discrepancies or Deficiencies in GSA of DOD Shipments, Material, or Billings (FPMR 101-26.8). Standard form 368 replaced GSA form 1718, Unsatisfactory Equipment Report, for reporting deficiencies and repetitive failures of motor vehicles. Agencies are urged to report all deficiencies to GSA irrespective of satisfactory corrective action taken by the manufacturer's authorized dealer. If the dealer refuses to take corrective action on any vehicle within its warranty period, the report shall so state and include an explanation of the circumstances. Standard form 368 shall also be used to report all noncompliance with specifications or other requirements of the purchase order.

(c) *GSA Form 6317, Instructions to Consignee Receiving New Motor Vehicles Purchased by General Services Administration.* This form is furnished to each consignee with copies of GSA form 1781, Motor Vehicle Requisition—Delivery Order—Invoice. Personnel responsible for receipt and operation of Government motor vehicles should be familiar with the instructions and information contained in GSA form 6317.

[41 FR 34631, Aug. 16, 1976, as amended at 43 FR 32768, July 28, 1978]

§ 101-26.501-7 Sale of vehicles.

GSA will not solicit trade-in bids when purchasing new motor vehicles for replacement purposes under the consolidated purchase program because experience has shown that suppliers (manufacturers) are unwilling to accept used vehicles in part payment for new ones. Accordingly, used vehicles that are being replaced will be disposed of by sale as set forth in part 101-46.

[43 FR 32768, July 28, 1978]

§ 101-26.501-8 Notification of vehicle defects.

Section 113 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1402) requires every manufacturer of motor vehicles to furnish notification of any defect in any motor vehicle or equipment produced by such manufacturer which he determines, in good faith, relates to motor vehicle safety. The notification is sent by certified mail directly to the purchaser (where known to the manufacturer) of such motor vehicle or motor vehicle equipment, within a reasonable time after such manufacturer has discovered such defect.

(a) It is to the Government advantage for agencies to promptly act on motor vehicle defect notices, thus avoiding the possibility of accidents and loss of life which could result from failure to act on such notices. Timely receipt of, and action on, defect notices can also result in avoidance of costly repairs and nonavailability of vehicles due to these repairs. On newly procured vehicles the manufacturers will send "Motor Vehicle Defect Notices" to the original consignee at the consignee's mailing address shown on the vehicle delivery order. However, agency heads shall notify manufacturers of the exact address to which "Motor Vehicle Defect Notices" are to be sent when vehicles are disposed of or transferred. Notification shall be made on all 1971 or later model vehicles. In the interest of uniformity, agencies shall use the following format for either purpose. All identification information shall be annotated on the format as requested.

To: (Vehicle Manufacturer)[1]

FORMAT

Information on the motor vehicles listed is submitted to assist you in complying with section 113 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1402).

Complete the following as appropriate: This notice covers (No. of vehicles) disposed of and/or (No. of vehicles) transferred vehicles. Transferred—Fill in the information below on "a," "b," "c," and "d." Disposed—Manufacturer will discontinue the address location for these vehicles. Identification of the disposed vehicles must be reported below in "a," "c," and "d."

a. Address of original owner of vehicle:

____

____

____

b. Address to which motor vehicle defect notices are to be sent:

____

____

____

c. Complete manufacturer's vehicle identification:

Year Model Serial No.

d. Contractual identification:

GSA Contract No. Item No.

(This information can be obtained from the GSA Form 1398, GSA Purchased Vehicle, which is located on the lock face or door frame of the right front door.)

(b) When motor vehicles are manufactured by a concern other than one for whom an address is shown in § 101-26.501-8(a) and the address of the manufacturer is not known, agencies shall inform GSA of the vehicle location address. (This includes those vehicles manufactured by the General

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[1] Addresses of manufacturers:

American Motors Corp., Fleet Sales Department, 14250 Plymouth Road, Detroit, MI 48232.

AM General Corporation, Logistics Division, 701 West Chippewa Avenue, South Bend, IN 46623.

Ford Customer Service Division, Field Recall Section, General Offices, Park Lane Towers West, 1 Park Lane Boulevard, Dearborn, MI 48126.

Director of Services, FWD Corporation, 105 East 12th Street, Clintonville, WI 54929.

International Harvester Co., Suite 900, 1707 L Street NW., Washington, D.C. 20036.

Field Service and Engineering, Chrysler Motors Corp., Government Sales Department, Post Office Box 716, Detroit, MI 48231.

Chevrolet Motor Division, Chevrolet Service Department, Argonaut A Building, 485 West Milwaukee Avenue, Detroit, MI 48202.

Director, Product Reliability, Diamond Reo Truck Division, White Motor Corp., 1330 South Washington Avenue, Lansing, MI 48920.

General Parts and Service Manager, GMC Truck and Coach Division, General Motors Corp., 660 South Boulevard, East, Pontiac, MI 48053.

Mack Trucks, Inc., Service Operations, Post Office Box 1000, Somerville, NJ 08876.

Supervisor, Vehicle Service and Safety Programs, White Trucks, Division of White Motor Corp., Post Office Box 5757, Cleveland, OH 44101.

Motors Corporation other than the Chevrolet Motor Division and the GMC Truck and Coach Division.) In these cases, agencies shall forward the vehicle location address to the General Services Administration (FYP), Washington, D.C. 20406. GSA will forward the vehicle location address to the manufacturer or advise the agency concerned.

(c) To preclude receipt of future defect notices on vehicles reported to GSA for sale, the reporting installation shall notify the manufacturer, or GSA with respect to vehicles manufactured by a concern other than those listed in this section, that the vehicle is being removed from Government service and that the address location for such vehicles should be discontinued.

[34 FR 5330, Mar. 18, 1969, as amended at 40 FR 57217, Dec. 8, 1975; 41 FR 34631, Aug. 16, 1976]

§ 101-26.502 Purchase of water coolers (dispensers).

[29 FR 15618, Nov. 20, 1964]

§ 101-26.502-1 Submission of purchase authorities.

(a) Executive agencies shall submit requests to GSA to fill requirements, for land use in the United States, of water coolers (dispensers) of the types covered in § 101-26.502-2. The requests shall be submitted to the General Services Administration (9FF), 525 Market Street, San Francisco, CA 94105, in FEDSTRIP/MILSTRIP format using routing identifier code GSϕ.

(b) Purchase authorities submitted for other than GSA Supply Catalog items shall be complete as to type, size, description, and electrical current characteristics (AC or DC, phase, voltage, and cycles), and shall also include required delivery date, consignment and shipping instructions, and other pertinent information.

(c) Requisitions received for water coolers (dispensers) which are stocked by GSA shall be supplied by issue from stock unless direct delivery would be more advantageous to the Government, price and other factors considered.

[29 FR 15618, Nov. 20, 1964, as amended at 38 FR 28567, Oct. 15, 1973; 41 FR 34632, Aug. 16, 1976]

§ 101-26.502-2 Types of water coolers (dispensers).

(a) Requests for only standard models of the following coolers, manufactured and sold with satisfactory results to the public generally, which meet the provisions of the latest issue in effect of Federal Specification 00-D-566 shall be submitted, except as provided in § 101-26.502-2(b):

(1) Bubbler Style (Type I, air-cooled; Type II, water-cooled) sizes 10 and 20.

(2) Cafeteria Style (Type III, air-cooled; Type IV, water-cooled) sizes 20 and 30.

(3) Remote Style (Type V, water-cooled) sizes 10, 20, and 30.

(4) Bottle Style (Type VI, air-cooled) size 3.

(b) Coolers to be manufactured of particular materials specified by a requisitioning agency shall be requested only when the need for such coolers (dispensers) is adequately justified.

[29 FR 15618, Nov. 20, 1964]

§ 101-26.503 Appliances.

Procurement of appliances by executive agencies shall be accomplished in accordance with the provisions of this § 101-26.503. Government contractors authorized by appropriate Government agencies to use GSA supply sources for appliances shall obtain their requirements in accordance with this § 101-26.503.

[39 FR 37197, Oct. 18, 1974]

§ 101-26.503-1 General.

To achieve the benefits and economies to be derived from consolidation of requirements, a program for procurement of refrigerators, freezers, ranges, washers, dryers, water heaters, and garbage disposal units is operated through the GSA regional offices in Fort Worth, TX, and San Francisco, CA. Based on estimated requirements, GSA issues indefinite quantity contracts covering standardized types of such appliances identified in Federal or military specifications. Also included are certain types of referigerators and freezers not covered by a Federal specification or standard. (Federal specifications and standards as used in this section mean the latest edition and include any interim specification or standard.)

[41 FR 34632, Aug. 16, 1976]

§ 101-26.503-2 Submission of requirements.

(a) Executive agencies shall submit to GSA for procurement their requirements for appliances to be purchased in the United States as follows:

(1) Refrigerators, household type, electric, as shown in Federal Standard 248.

(2) Refrigerators, household type, gas-operated, except gas-operated refrigerators 4 cubic feet and under.

(3) Frozen food cabinets, household type, electric, as shown in Federal Standard 247.

(4) Frozen food cabinets, commercial type, gas or electric.

(5) Ranges, gas, as shown in Federal Standard 277.

(6) Ranges, electric, as shown in Federal Standard 278.

(7) Washing machines, drying tumblers, and washer-dryers, in accordance with Federal Specification 00-W-860.

(8) Washer-extractor, laundry, commercial, in accordance with Federal Specification 00-W-20.

(9) Drying tumbler, laundry, commercial, in accordance with Federal Specification 00-D-750.

(10) Garbage disposal machines, household, in accordance with Federal Specification 00-G-1513.

(11) Water heaters, gas, residential, in accordance with Military Specification MIL-H-16633.

(12) Water heaters, electric, residential, in accordance with Federal Specification W-H-196.

(b) Requirements for water heaters and garbage disposal units shall be submitted to the General Services Administration (7FF), 819 Taylor Street, Fort Worth, TX 76102, in FEDSTRIP/MILSTRIP format using routing identifier code GFϕ and for refrigerators, freezers, ranges, washers, and dryers to the General Services Administration (9FF), 525 Market Street, San Francisco, CA 94105, in FEDSTRIP/MILSTRIP format using routing identifier code GSϕ. Requisitions for appliances not identified by national stock number as shown in the applicable Federal standard shall be complete as to type, size, description, electrical current characteristics (a.c. or d.c., phase, voltage, and cycles), and other pertinent information. If the item is available from an existing contract, the GSA regional office will procure the appliance from the contractor for direct delivery to the consignee. If the item is not available from an existing contract, GSA will either arrange for procurement of the item or inform the submitting agency of other appropriate action to be taken. Agencies should allow sufficient leadtime (see § 101-26.102-3) in establishing required delivery dates to permit orderly procurement by GSA.

(c) Contracts covering appliances for delivery within the United States generally require shipment within 30-65 days after receipt of orders. Consequently, when an item covered by this § 101-26.503 is needed to meet an essential immediate need, and time or circumstances do not permit obtaining the item from GSA, procurement may be made without recourse to GSA.

(d) When repetitive need for appliances of a different quality or description from those covered by this § 101-26.503 exists, procurement may be made without recourse to GSA. However, agencies shall notify GSA of these requirements for consideration to include such items in the GSA appliance program. Notices concerning procurement of repetitive requirements shall be submitted to the General Services Administration (FPG), Washington, DC 20406.

[35 FR 15995, Oct. 10, 1970, as amended at 41 FR 34632, Aug. 16, 1976]

§ 101-26.504 [Reserved]

§ 101-26.505 Office and household furniture and furnishings.

Requirements for new office and household furniture and furnishings as described in this § 101-26.505 shall be satisfied from GSA stock or Federal Supply Schedule contracts to the extent that agencies are required to use these sources. Requirements for items not obtainable from these sources may be satisfied by any Federal agency through GSA special buying services upon agency request pursuant to the provisions of § 101-26.102. Before initiating a procurement action for new items, items on hand should be redistributed, repaired, or rehabilitated, as feasible, pursuant to § 101-26.101

[43 FR 22211, May 24, 1978]

§ 101-26.505-1 Description of office and household furniture.

(a) Office furniture is equipment normally associated with occupancy or use in such areas as offices, conference and reception rooms, institutional waiting rooms, lobbies, and libraries. Such equipment includes desks, tables, credenzas, bookcases, coatracks, telephone cabinets, filing sections and cabinets, office safes, security cabinets, chairs, and davenports.

(b) Household furniture is equipment normally associated with occupancy or use in areas such as housekeeping and nonhousekeeping quarters, reception rooms, and lobbies. Such equipment includes davenports, chairs, tables, buffets, china cabinets, beds, wardrobes, and chests.

[33 FR 14959, Oct. 5, 1968]

§ 101-26.505-2 Description of office and household furnishings.

(a) Office furnishings are articles which supplement office furniture and augment the utility of the space assigned. These articles include lamps, desk trays, smoking stands, waste receptacles, carpets, and rugs.

(b) Household furnishings are articles which supplement household furniture and add to the comfort or utility of the space assigned. Such articles include lamps, mirrors, carpets, rugs, and plastic shower and window curtains.

[33 FR 14959, Oct. 5, 1968]

§ 101-26.505-3 Requests to procure similar items from sources other than GSA supply sources.

When an agency required to obtain items of office and household furniture and furnishings from GSA stock or Federal Supply Schedule contracts determines that items available from these sources will not serve the required functional end use, requests to procure similar items from other than GSA sources shall be submitted for consideration in accordance with § 101-26.100-2.

[41 FR 34632, Aug. 16, 1976]

§§ 101-26.505-4—101-26.505-6 [Reserved]

§ 101-26.505-7 GSA assistance in selection of furniture and furnishings.

The Customer Service Representative in each GSA regional office will, upon request, furnish agencies with information on the types, styles, finishes, coverings, and colors of office and household furniture and furnishings available through the GSA purchase program. (See § 101-26.506.)

[43 FR 22211, May 24, 1978]

§ 101-26.506 Interior planning and design services.

In addition to the assistance provided in the selection of furniture and furnishings as specified in § 101-26.505-7, the GSA Public Buildings Service, through facilities located in each region, will assist Federal activities within the United States, the Commonwealth of Puerto Rico, and the Virgin Islands in various phases of interior planning and design. These services will be provided either directly or through commercial sources. (For services involving space layout, see § 101-17.400.)

[41 FR 42953, Sept. 29, 1976]

§ 101-26.506-1 Types of service.

GSA interior planning and design services consist of data gathering and organizational analysis; development of a space requirements program; softline space plans; development of an interior design program (to include finish materials, furniture and furnishing specifications, and procurement data); and complete floor plans for telephones, electrical outlets, partitions, furniture, and equipment. The items specified for procurement will be selected from approved GSA sources of supply.

[41 FR 42953, Sept. 29, 1976]

§ 101-26.506-2 Limitations.

(a) When furniture and furnishings requirements have been developed in connection with interior planning and design services furnished by GSA, the requesting agency shall determine that such requirements are in consonance with the criteria for acquisition of furniture and furnishings as provided in §§ 101-25.302 and 101-25.404.

(b) Furniture and furnishings to be obtained in connection with interior planning and design services furnished by GSA shall be acquired, to the extent available, from GSA stock or through Federal Supply Schedules in accordance with the provisions of §§ 101-26.301 and 101-26.401.

[31 FR 9797, July 20, 1966, as amended at 43 FR 22211, May 24, 1978]

§ 101-26.506-3 Submission of requests.

Requests for interior planning and design services shall be submitted on Standard Form 81, Request for Space (illustrated at § 101-17.4901-81), and forwarded to PBS in the GSA regional office serving the geographic area of the requesting agency. Requests shall include the following information:

(a) Type of space in terms of its use;

(b) Location;

(c) Floor plans, if available;

(d) Occupancy date;

(e) Amount of funds available for the project; and

(f) Name, address, title, and telephone number of requesting official.

[41 FR 42953, Sept. 29, 1976]

§ 101-26.506-4 Acceptance and processing of requests.

Agency requests for interior planning and design service will be reviewed and if considered feasible, will be accepted. Upon acceptance of a request by GSA, a proposal will be furnished the requesting activity for review and approval within 30 days. The proposal will include the following:

(a) Approximate date the work can be started;

(b) Estimated completion date of planning and design services;

(c) The amount to be reimbursed GSA for the services; and

(d) Other pertinent data or recommendations.

[31 FR 9797, July 20, 1966]

§ 101-26.506-5 Reimbursement for services.

If the GSA proposal is acceptable, a purchase order, requisition, or other funded authorization document shall be issued to the GSA office named in the proposal. GSA will bill the office indicated in the order or authorization for the amount specified in the proposal. The reimbursement procedures are designed to recover GSA's direct cost for providing these services. Any changes in the scope of the project requested by the requisitioning agency prior to its completion may require a revision in the amount of the reimbursable charges and the time schedule for completion.

[31 FR 9797, July 20, 1966]

§ 101-26.507 Security equipment.

Procurement of security equipment for executive agencies shall be accomplished in accordance with the provisions of this § 101-26.507. Government contractors and subcontractors eligible to purchase security equipment (see §§ 1-5.902 and 101-26.407) and other Federal agencies may participate in this program.

[41 FR 34632, Aug. 16, 1976]

§ 101-26.507-1 Submission of requisitions.

Requisitions for security equipment covered by the latest edition of Federal specifications AA-F-357, AA-F-358, AA-F-363, AA-S-1518, and AA-D-600, and interim Federal specifications AA-F-00364 and AA-C-001697 shall be submitted in FEDSTRIP format to the GSA regional office supporting the geographic area in which the requisitioner is located. GSA will consolidate requisitions for these items from all regions for procurement on a definite quantity basis.

[43 FR 32765, July 28, 1978]

§ 101-26.507-2 Procurement time schedule.

Requisitions for security equipment will be consolidated by GSA on January 31, April 30, July 31, and October 31 of each year. The consolidated requisitions will be used in executing definite quantity contracts. To ensure inclusion in the invitation for bids, requisitions shall be submitted to GSA on or before January 1, April 1, July 1, or October 1 as appropriate. Requisitions received after any of these dates normally will be carried over to the subsequent consolidation date. Approximately 180 calendar days following the consolidation dates should be allowed for initial delivery. Requisitions shall include a required delivery date which reflects anticipated receipt under the time schedule.

[43 FR 32765, July 28, 1978]

§ 101-26.507-3 Purchase of security equipment from Federal Supply Schedules.

To ensure that a readily available source exists to meet unforeseen demands for security equipment, indefinite quantity Federal Supply Schedule contracts will remain in effect to satisfy urgent requirements which are not appropriate for consolidated procurement and do not exceed the maximum order limitations. Items of security equipment are available through Federal Supply Schedule, FSC group 71, part XI, sections A and B, for agencies to order direct from the contractor. These sources may also be used by Government contractors and subcontractors (at any tier) meeting the requirements of §§ 1-5.902 and 101-26.407, as applicable, for purchases within the specified maximum order limitation.

[43 FR 32765, July 28, 1978]

§ 101-26.507-4 Quantities in excess of the maximum order limitation.

Quantities exceeding the maximum order limitation on Federal Supply Schedules will also be consolidated and procured by GSA pursuant to § 101-26.507-2. Where quantities are required to be delivered before the time frames established for the quarterly consolidated procurement, the requisition must indicate the earlier required delivery. As necessary, separate procurement action will be taken by GSA to satisfy the requirements.

[41 FR 34632, Aug. 16, 1976]

§ 101-26.508 Electronic data processing (EDP) tape and instrumentation tape (wide and intermediate band).

Procurement by Federal agencies of EDP tape and instrumentation tape (wide and intermediate band) shall be accomplished in accordance with the provisions of this § 101-26.508.

[38 FR 2176, Jan. 22, 1973]

§ 101-26.508-1 Requisitioning data processing tape available through Federal Supply Schedule contracts.

Federal Supply Schedules, FSC group 70, part XI, and FSC group 58, part V, section C, include contracts to satisfy Government requirements for those types of EDP tape and instrumentation tape (wide and intermediate band) which are most widely used. Federal agencies located within the 48 contiguous United States, Washington, D.C. and Hawaii (applicable to EDP tape only for Hawaii) shall procure these tapes in accordance with the provisions of the current schedules and this § 101-26.508-1. Orders not exceeding the maximum order limitations of the Federal Supply Schedules and prepared directly by activities located outside the geographical areas referenced above shall, to the extent possible, be consolidated and submitted in FEDSTRIP format to the GSA regional office supporting the geographic area in which the requisitioner is located.

[43 FR 32765, July 28, 1978]

§ 101-26.508-2 Requisitioning data processing tape not available from Federal Supply Schedule contracts.

(a) Requisitions for types of EDP tape and instrumentation tape (wide and intermediate band) covered by Federal Supply Schedule contracts which exceed the maximum order limitations of the schedule shall be submitted to the GSA regional office supporting the geographic area in which the requisitioner is located.

(b) Requisitions for all types of EDP tape and instrumentation tape (wide and intermediate band) not covered by Federal Supply Schedule contracts shall be submitted to GSA for purchase action when the dollar value of the requisitions exceeds, or is estimated to exceed, $2,500 for EDP tape and $5,000 for instrumentation tape. However, regardless of the amount involved (including requisitions estimated to be less than the dollar limitations referenced above), purchase action shall not be taken by GSA or an agency unless a waiver of the requirement for using items of tape available from Federal Supply Schedule contracts has been furnished in accordance with § 101-26.100-2.

Requests for waivers shall be submitted to the Commissioner, Federal Supply Service (F), General Services Administration, Washington, D.C. 20406. The requests shall fully describe the type of tape required and state the reasons Federal Supply Schedule items will not adequately serve the agency's needs. GSA will notify the requesting agency in writing of the action taken on the requests. To reduce leadtime, requisitions may be submitted in FEDSTRIP format with the requests for waivers. Requisitions for which a waiver has first been obtained shall be submitted with a copy of the waiver to the GSA regional office supporting the geographic area in which the requisitioner is located. GSA will either arrange for procurement of the items or authorize the requesting agency to procure them.

(c) When establishing required delivery dates in purchase requests submitted in accordance with this § 101-26.508-2, agencies should normally allow 105 days leadtime to permit orderly procurement by GSA. In addition to this 105 days leadtime, inspection and testing of the tape requires approximately 15 days.

(d) When an agency submitting a purchase request in accordance with this § 101-26.508-2 has a need for scheduled deliveries, minimum or maximum order quantities, or other special arrangements, GSA will develop specific provisions to accommodate the needs. The provisions will be based on information furnished by the agency concerned and will be included in solicitations for offers and resultant contracts.

[37 FR 20941, Oct. 5, 1972, as amended at 41 FR 34633, Aug. 16, 1976; 43 FR 32765, July 28, 1978]

§ 101-26.508-3 Consolidation of requisitions.

To the maximum extent feasible, agencies shall develop procedures which will permit planned consolidated requisitioning of EDP tape and instrumentation tape (wide and intermediate band) on an agencywide basis. When agencywide consolidation is not feasible, consideration shall be given to the consolidation of individual requisitions for small quantities at any agency level. This will enable the Government to benefit from lower prices generally obtainable through large volume procurements.

[43 FR 32766, July 28, 1978]

§ 101-26.509 Tabulating machine cards.

Procurement by Federal agencies of tabulating machine cards shall be made in accordance with the provisions of this § 101-26.509.

[37 FR 24113, Nov. 14, 1972]

§ 101-26.509-1 Requisitioning tabulating machine cards available from Federal Supply Schedule contracts.

Federal Supply Schedule, FSC group 75, part VIII, includes contracts for tabulating cards applicable to electrical and mechanical contact tabulating machines, including aperture cards and copy cards. Federal agencies shall procure these cards in accordance with the provisions of the current schedule. Orders not exceeding the maximum order limitation of the Federal Supply Schedule and prepared directly by activities located outside the geographical delivery areas specified in the schedule shall be submitted in FEDSTRIP format to the GSA regional office supporting the geographic area in which the requisitioner is located.

[43 FR 32766, July 28, 1978]

§ 101-26.509-2 Requisitioning tabulating machine cards not available from Federal Supply Schedule contracts.

(a) Requisitions for tabulating machine cards covered by Federal Supply Schedule contracts which exceed the maximum order limitation of the schedule shall be forwarded in FEDSTRIP format to the GSA regional office supporting the geographic area in which the requisitioner is located.

(b) Requisitions for tabulating machine cards not covered by Federal Supply Schedule contracts shall be submitted to GSA for purchase action if the dollar value of the cards exceeds or is estimated to exceed $2,500. However, regardless of the amount involved (including requisitions estimated to be $2,500 or less), purchase action shall not be taken by GSA or an agency unless a waiver of the requirement for the use of tabulating cards available from Federal Supply Schedule contracts has been furnished in accordance with § 101-26.100-2. Requests for waivers shall be submitted to the Commissioner, Federal Supply Service (F), General Services Administration, Washington, D.C. 20406. The requests shall fully describe the items required and state the reasons the tabulating machine cards covered by the Federal Supply Schedule contracts will not adequately serve the end-use purpose. GSA will notify the requesting agency in writing of the action taken on the waiver request. To reduce leadtime, requisitions may be submitted in FEDSTRIP format with the requests for waivers. A requisition for items for which a waiver has first been obtained shall be submitted with a copy of the waiver to the GSA regional office supporting the geographic area in which the requisitioner is located. GSA will either arrange for procurement of the items or authorize the requesting activity to procure them.

(c) Purchase requests with established delivery dates should allow sufficient leadtime (see § 101-26.102-3) to permit orderly procurement by GSA, including acceptance testing and delivery to destination.

(d) In those instances where an agency anticipates a need for scheduled deliveries, minimum or maximum order quantities, or other special arrangements, GSA will develop specific provisions to accommodate the needs of the particular agency. These provisions will be based on information furnished by the agency concerned for inclusion in solicitations for offers and resultant contracts.

[35 FR 13440, Aug. 22, 1970, as amended at 43 FR 22212, May 24, 1978; 43 FR 32766, July 28, 1978]

§ 101-26.509-3 Consolidation of requisitions.

To the maximum extent feasible, agencies shall consolidate their requisitions for tabulating machine cards on an agencywide basis. If agencywide consolidation is not feasible, consideration shall be given to the consolidation of requisitions at any agency level when the Government will benefit from lower prices through large-volume procurement.

[43 FR 32766, July 28, 1978]

Subpart 101-26.6—Procurement Sources Other Than GSA

§ 101-26.600 Scope and applicability of subpart.

This subpart prescribes the policies, procedures, and limitations relating to civil agency use of procurement sources of the Department of Defense (DOD), which include the Defense supply centers of the Defense Logistics Agency (DLA) and the inventory control points of the military departments. The provisions of this Subpart 101-26.6 are applicable to executive agencies unless otherwise specifically indicated. Other Federal agencies are encouraged to satisfy their requirements in the same manner.

[42 FR 58748, Nov. 11, 1977]

§ 101-26.601 [Reserved]

§ 101-26.602 Fuels and packaged petroleum products obtained from or through the Defense Logistics Agency.

(a) Agencies shall be governed by the provisions of this § 101-26.602 in obtaining requirements of coal, petroleum fuels, and certain petroleum products from or through the Defense Logistics Agency.

(b) The Defense Logistics Agency has been assigned the supply responsibility for these materials which will be available either from contracts (or contracts summarized in contract bulletins) issued by the Defense Fuel Supply Center, Alexandria, Va., or through FEDSTRIP/MILSTRIP requisitions placed on the Defense General Supply Center, Richmond, Va., in accordance with instructions contained in § 101-26.602-2. Agencies submitting estimates of requirements which are summarized in the Defense Fuel Supply Center contract bulletins are obligated to procure such requirements from these contracts. Estimates submitted shall not include requirements normally obtained through service station deliveries utilizing the U.S. Government National Credit Card.

[42 FR 58748, Nov. 11, 1977]

§ 101-26.602-1 Procurement of lubricating oils, greases, and gear lubricants.

(a) The Defense Fuel Supply Center will make annual procurements of lubricating oils, greases, and gear lubricants for ground type (nonaircraft) equipment and of aircraft engine oils on an annual program basis. Estimates of requirements for items covered by these programs will be solicited annually from agencies on record with the Defense Fuel Supply Center in time for the requirements to arrive at the Center on the following schedule:

	Purchase program	Due on or before
Lubricating oils (nonaircraft).	4.1	November 15.
Aircraft engine oils	4.2	June 15.
Grease and gear oils	4.4	October 15.

(b) Activities not on record but requiring procurement support shall submit requests to: Commander, Defense Fuel Supply Center, Attn: DFSC:PG, Cameron Station, Alexandria, VA 22314, on or before the requirement due dates specified in § 101-26.602-1(a). Submission of requirements is not required if:

(1) The maximum single order is less than the minimum quantity obtainable under the bulletin;

(2) Container sizes are smaller than those available under the bulletin; or

(3) Purchase without regard to existing Defense Fuel Supply Center contracts is otherwise authorized.

(c) Agency requirements will be consolidated and solicited for procurement by the Defense Fuel Supply Center. Contractual action to obtain coverage for these programs will be summarized in a contract bulletin for program 4.1 and 4.4. Copies of the bulletins (copies of contracts for program 4.2) will be distributed to addresses provided by the agencies on record.

(d) Deliveries of lubricants covered by Defense Fuel Supply Center contracts shall be obtained by activities in the United States by following the instructions contained in the respective contracts or contract bulletins.

[34 FR 19977, Dec. 20, 1969, as amended at 39 FR 33315, Sept. 17, 1974]

§ 101-26.602-2 Procurement of packaged petroleum products.

(a) Packaged petroleum products listed in Federal Supply Catalog for Civil Agencies shall be obtained by submitting requisitions prepared in accordance with the FEDSTRIP Operating Guide (FPMR 101-26.2) to the Defense General Supply Center (DGSC), Richmond, Va. 23297, using routing identifier code S9G. The Federal Supply Catalog for Civil Agencies may be obtained, upon written request, from the Commander, Defense Logistics Services Center, Attn: DLSC-T, Battle Creek, Mich. 49016. Requisitions for packaged petroleum items not in this catalog and not otherwise included in Defense Fuel Supply Center (DFSC) procurements under the provisions of § 101-26.602-1 may be submitted to DGSC. DGSC will supply the items from inventory or will refer the requisitions to DFSC for purchase and direct delivery to the requisitioner. Packaged petroleum items may be obtained from other Federal activities by agreement with the activity concerned or by local purchase when such action is authorized under the provisions of the Defense Logistics Agency (DLA) local purchase policy contained in paragraph (b) of this section.

(b) Activities may effect local purchase of any DLA-managed, centrally procured item, commercialy available, provided the purchase:

(1) Is limited to immediate-use requirements generated by emergency

conditions (e.g., work stoppage, etc.), or

(2) Is to satisfy a routine requirement having a total line value not in excess of $25 and is determined to be the most economical method of supply.

(c) DGSC may return requisitions for local purchase action citing FEDSTRIP/MILSTRIP status code CW with the concurrence of the requisitioning activity when it is deemed that a local purchase action would be the most economical method of supply. A determination will be based on recognition of excessive costs (procurement, transportation/shipping, and special packaging considerations) as compared to those costs associated with local purchase action. Requisition priorities, backorder situations, procurement and required delivery dates (PDD/RDD), and requisition line item dollar values shall not be a basis or consideration for a Status Code CW reject action. Requisitions from overseas activities will not be returned to overseas activities for a local purchase action.

[37 FR 668, Jan. 15, 1972, as amended at 42 FR 58748, Nov. 11, 1977]

§ 101-26.602-3 Procurement of gasoline, fuel oil (diesel and burner), kerosene, and solvents.[1]

(a) Estimates of annual requirements will be solicited annually by the Defense Fuel Supply Center from agencies on record so as to reach that activity approximately 45 calendar days before the due date shown in Defense Fuel Supply Center geographic alignment of States set forth in § 101-26.602-3 (d) and (e). The requirements call will be accomplished by mailing a computer-produced record of the file data for each delivery point that has been identified to each submitting addressee; instructions for validation and return will be included. Activities not on record but requiring procurement support shall prepare and submit estimates on DFSC Form 15:18 to the Defense Fuel Supply Center, Cameron Station, Alexandria, VA 22314. An illustration of DFSC Form 15:18 is contained in § 101-26.4904-1518. Copies may be obtained on request from: Commander, Defense Fuel Supply Center, Attention: DFSC—OD, Cameron Station, Alexandria, VA 22314.

(1) Estimated annual requirements for any delivery point which total less than the following minimums shall not be submitted to the Defense Fuel Supply Center, unless the activity does not have authority or capability to procure locally.

Item	Minimum annual requirement
Gasoline	[1] 2,000
Burner fuel oil	[1] 2,000
Diesel oil	[1] 2,000
Kerosene	[1] 500
Solvents	[1] 500

[1] Gallons.

(2) Estimates shall not be submitted when the minimum quantities to be delivered to any one point on a single delivery are less than the following minimums, unless the activity does not have the authority or capability to procure locally.

Delivery method	Minimum quantity furnished on a single delivery
Drums	4 drums (200-220 [1]).
Tank wagon	50 [1].
Transport truck	Full truckload (5,200-7,500 [1]).
Tank car	Full carload (8,000-12,000 [1]).

[1] Gallons.

(b) Agency requirements will be solicited for procurement by the Defense Fuel Supply Center, and contracts resulting from these solicitations will be summarized in contract bulletins, separately for each Defense Fuel Supply Center geographic region, and distributed to agencies on record. Activities requiring additional contract bulletins shall submit requests to: Commander, Defense Fuel Supply Center, Attention: DFSC—OD, Cameron Station, Alexandria, VA 22314.

(c) The items covered in contract bulletins issued by the Defense Fuel Supply Center are in accordance with the latest issue of the applicable Federal specification. Agency requirements submitted for products not under a Federal specification must include accurate and complete product laboratory analysis.

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[1] See Temporary Regulation E-71 in the appendix to Subchapter E for temporary changes to §101-26.602-3.

(d) The following illustrates the Defense Fuel Supply Center geographic alignment of the States, the delivery periods covered for each region, the identification of purchase programs, and the due dates for submission of requirements for motor gasoline, fuel oil (diesel and burner), and kerosene.

MOTOR GASOLINE, FUEL OILS (DIESEL AND HEATING), AND KEROSENE

State	Delivery period	Requirements due date
Alaska—Purchase Program 3.9 [1].	July 1–June 30	January 1.
Hawaii—Purchase Program 3.10 [1].	January 1–December 31.	July 1.
DFSC Region 1—Purchase Program 3.21:		
Connecticut	September 1–August 31.	March 1.
Maine	do	Do.
Massachusetts	do	Do.
New Hampshire	do	Do.
Rhode Island	do	Do.
Vermont	do	Do.
DFSC Region 2—Purchase Program 3.22:		
New Jersey	October 1–September 30.	April 1.
New York	do	Do.
Pennsylvania	do	Do.
DFSC Region 3—Purchase Program 3.23:		
Delaware	August 1–July 31.	February 1.
District of Columbia	do	Do.
Indiana	do	Do.
Kentucky	do	Do.
Maryland	do	Do.
Ohio	do	Do.
Tennessee	do	Do.
Virginia	do	Do.
West Virginia	do	Do.
DFSC Region 4—Purchase Program 3.24:		
Alabama	April 1–March 31.	October 1.
Arkansas	do	Do.
Florida	do	Do.
Georgia	do	Do.
Louisiana	do	Do.
Mississippi	do	Do.
Missouri	do	Do.
North Carolina	do	Do.
South Carolina	do	Do.
Puerto Rico	do	Do.
Virgin Islands	do	Do.
DFSC Region 5—Purchase Program 3.25:		
Illinois	May 1–April 30	Nov. 1.
Iowa	do	Do.
Michigan	do	Do.
Minnesota	do	Do.
Wisconsin	do	Do.
DFSC Region 6—Purchase Program 3.26:		
Colorado	June 1–May 31	December 1.
Kansas	do	Do.
Nebraska	do	Do.
New Mexico	do	Do.
North Dakota	do	Do.
Oklahoma	do	Do.
South Dakota	do	Do.
Texas	do	Do.
Wyoming	do	Do.
DFSC Region 7—Purchase Program 3.27:		
Arizona	November 1–October 31.	May 1.
California	do	Do.
Nevada	do	Do.
Utah	do	Do.
DFSC Region 8—Purchase Program 3.28:		
Idaho	July 1–June 30	January 1.
Montana	do	Do.
Oregon	do	Do.
Washington	do	Do.

[1] Includes solvents.

NOTE: Program 3.23 does not include requirements for those activities supported by the GSA Region 3 Fuel Yard.

(e) Estimates of requirements for solvents to be delivered in the continental United States, Puerto Rico, and the Virgin Islands during the period January 1 through December 31 shall be submitted to arrive at the Defense Fuel Supply Center by the preceding July 1. The purchase program identification is 3.11.

(f) Estimates of requirements for aviation fuels for delivery in the United States shall be submitted in accordance with section 11, chapter 1, of DOD 4140.25-M, Procedures for the Management of Petroleum Products.

(g) Requirements for aviation fuels (all grades) shall be submitted in accordance with DFSC Regulation 4220.1, Requirements Submission Schedule for Petroleum Products. Copies of DFSCR 4220.1 may be obtained from the Defense Fuel Supply

Center (DFSC-W), Cameron Station, Alexandria, Va. 22314.

(h) Requirements for petroleum fuels at locations other than as identified in this § 101-26.602-3 may be obtained from other Federal activities by agreement with the activity concerned or from local purchase sources, when local purchase authority and capability exists, or by submitting requests direct to the Defense Fuel Supply Center, Attention: DFSC-OD, Cameron Station, Alexandria, Va. 22314, if centralized procurement is desired.

[34 FR 19978, Dec. 20, 1969, as amended at 39 FR 33316, Sept. 17, 1974; 42 FR 58749, Nov. 11, 1977]

§ 101-26.602-4 Procurement of coal.

(a) Federal agencies desiring to participate in the Defense Fuel Supply Center coal contracting program for carload delivery outside the District of Columbia and vicinity may obtain coal through this program by submitting estimates as provided in this § 101-26.602-4.

(b) Estimates of coal requirements shall be prepared on DD Form 416, Requisition for Coal, Coke, or Briquettes (illustrated as § 101-26.4904-416), clearly marked "Estimate Only", and submitted in original and one copy to arrive at the Defense Fuel Supply Center, Cameron Station, Alexandria, Va. 22314, before the following requirement due dates:

Purchase program	For activities located in	Requirements due in DFSC by	For delivery beginning
5.5	Indiana, Illinois, Iowa, Kansas, Missouri, South Dakota, West Tennessee, West Kentucky, Wisconsin.	June 1	December 1.
5.9 (Lignite)	North Dakota	June 1	December 1.
5.3	Alabama, East Kentucky, East Tennessee, Ohio, Georgia, North Carolina, South Carolina, West Virginia.	August 15	April 1.
5.8 (Anthracite)	Connecticut, District of Columbia, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Virginia, South Carolina.	November 1	May 1.
5.4	Michigan, Minnesota, North Dakota, Wisconsin	November 1	May 1.
5.7	Alaska	November 1	May 1.
5.2	District of Columbia, Maryland, New Jersey, Pennsylvania, Virginia.	January 15	August 1.
5.1	Connecticut, Maine, Massachusetts, New Hampshire, New York, Vermont.	April 1	October 1.
5.6	Arizona, California, Colorado, Idaho, Montana, New Mexico, Oregon, Utah, Washington, Wyoming.	April 1	October 1.

NOTE: Except for purchase programs 5.8 and 5.9 all programs refer to requirements for bituminous coal.

(1) A separate requirement form shall be prepared for each delivery point and for each size and kind of coal, such as bituminous, anthracite, or lignite. The purchase program number is to be entered in the upper right hand block of DD Form 416.

(2) The section of DD Form 416 entitled "Analytical Specifications Required" shall reflect minimum requirements based on heating engineering data applicable to the particular equipment in which the coal will be used.

(c) Contractual information covering these requirements will be furnished each participating agency by the Defense Fuel Supply Center after contracts are awarded. As shipments of coal are required, each activity shall direct the contractor to make delivery. Payment for deliveries shall be arranged for by the ordering activity directly with the contractor. Should estimated requirements not be needed due to changes or conversions in heating equipment or other reasons, activities shall notify the Defense Fuel Supply Center of such changes as soon as possible.

(d) Copies of DD Form 416 may be obtained from: Commander, Defense

Fuel Supply Center, Attention: DFSC:PE, Cameron Station, Alexandria, VA 22314.

(e) Requirements for coal at locations other than as identified in this § 101-26.602-4 may be obtained by submitting requests directly to the Defense Fuel Supply Center, if centralized procurement is desired.

(f) Each participating agency may elect to collect coal samples, for analysis purposes, in accordance with the latest edition of the Handbook on Coal Sampling issued by the Department of the Interior, Bureau of Mines. Copies of this Handbook on Coal Sampling may be obtained upon request from: Coal Sampling and Inspection, Division of Mineral Studies, U.S. Bureau of Mines, College Park, Md. 20740.

(g) Coal samples shall be forwarded by the agency to the Bureau of Mines, 4800 Forbes Avenue, Pittsburgh, Pa. 15213. A charge for each sample submitted will be assessed by the Bureau of Mines for performing such analysis, or agencies may enter into an agreement with the Bureau of Mines for services and testing on an annual flat rate basis. Agencies shall furnish the Bureau of Mines laboratory complete billing instructions at the time samples are submitted. Copies of the results of each analysis will be furnished by the Bureau of Mines to offices responsible for payment for comparison with the analytical limits guaranteed by the contractor. In the event that the sample does not meet the minimum requirements of the analytical limits specified in the contract, the using agency shall compute the amount, if any, to be deducted from the contract price.

[34 FR 19978, Dec. 20, 1969, as amended at 42 FR 58749, Nov. 11, 1977]

§ 101-26.603 Electronic items available from the Defense Logistics Agency.

Executive agencies shall satisfy their requirements for electronic items listed in the Federal Supply Catalog for Civil agencies (FSC group 59, except classes 5940, 5970, 5975, 5977, and 5995) from the Defense Electronic Supply Center (DESC), DLA. Requisitions shall be prepared in accordance with the FEDSTRIP Operating Guide and submitted to DESC, 1507 Wilmington Pike, Dayton, Ohio 45444, using routing identifier code S9E. Items listed in classes 5940, 5970, 5975, 5977, and 5995, unless managed as exceptions by GSA, shall be obtained from the Defense General Supply Center (DGSC), Richmond, Va. 23297. Electronic items may be obtained from local purchase sources when such action is authorized under the provisions of § 101-26.602-2(b). DESC may return requisitions for local purchase under the same conditions governing the return of requisitions by DGSC set forth in § 101-26.602-2(c).

[42 FR 58749, Nov. 11, 1977]

§ 101-26.605 Items other than petroleum products and electronic items available from the Defense Logistics Agency.

Agencies required to use GSA supply sources should also use Defense supply centers (DSC's) as sources of supply for items listed in the Federal Supply Catalog for Civil Agencies, Identification and Management Data List, published by DLA. By agreement with the Defense Logistics Agency, the catalog will contain only those items in Federal supply classification classes which are assigned to them for Government-wide integrated management, or exception items in other classes similarly assigned. A list of DSC's and their corresponding commodity areas along with requisitioning instructions are published in the FEDSTRIP Operating Guide. As additional items are assigned to managers other than GSA for Government-wide integrated material management, GSA will announce the changes through the Federal Catalog System and GSA's regular supply publications.

[42 FR 58750, Nov. 11, 1977]

§ 101-26.606 Supply support available from the inventory control points of the military departments.

Federal civil agencies may obtain items of supply which are procured and managed by the inventory control points (ICP) of the Army, Navy, and Air Force and are available in the United States, provided that a national stock number has been assigned to the items. A list of ICP's and their corresponding commodity areas is in the FEDSTRIP operating Guide. Agencies should also refer to the FEDSTRIP operating Guide for additional information concerning supply support from the ICP's and for instructions on obtaining items from these sources.

[42 FR 58750, Nov. 11, 1977]

§ 101-26.607 Billings.

Unless other arrangements have been made between the Defense Logistics Agency and the requisitioning activity, billings for sales will be rendered at least monthly on Standard Form 1080, Voucher for Transfers Between Appropriations and/or Funds, supported by a listing of documents including identification of requisitions and related cards reflecting data pertaining to the gross sale, the retail loss allowance, and any credits for adjustments applicable to prior billings. In addition to these charges, an accessorial charge will be made on shipments destined for overseas to cover expenses incident to overseas packing, handling, and transportation. The Defense supply centers shall be provided with a continental U.S. address for payment of bills for overseas shipments.

[42 FR 28750, Nov. 11, 1977]

§ 101-26.607-1 Payments.

Payments are expected to be made within 15 calendar days of receipt of the Standard Form 1080 from the Defense supply centers. Payment shall not be deferred until receipt of shipment or withheld pending resolution of adjustments.

[42 FR 58750, Nov. 11, 1977]

§ 101-26.607-2 Adjustments.

Requests for billing adjustments should be submitted in accordance with chapter 5 of the GSA Handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings (FPMR 101-26.8).

[42 FR 58750, Nov. 11, 1977]

§ 101-26.607-3 Emergency requirements.

In cases of public exigency, items available from the Defense Logistics Agency may be procured from other sources as provided in § 1-3.202.

[42 FR 58750, Nov. 11, 1977]

Subpart 101-26.7—Procurement Sources Other Than GSA and the Department of Defense

SOURCE: 39 FR 20599, June 12, 1974, unless otherwise noted.

§ 101-26.700 Scope and applicability of subpart.

This subpart prescribes policy and procedures relating to procurement sources other than those of GSA and the Department of Defense. The provisions of this Subpart 101-26.7 are applicable to executive agencies unless otherwise indicated. Other Federal agencies are encouraged to obtain their requirements in the same manner.

§ 101-26.701 Purchase of products and services from the blind and other severely handicapped persons.

(a) Purchases by executive agencies of products produced by workshops of the blind or other severely handicapped persons which are carried in GSA supply distribution facilities must be made as provided in Subpart 101-26.3.

(b) Purchases by all Federal agencies of products and services offered for sale by workshops of the blind or other severely handicapped persons which are not carried in GSA supply distribution facilities, and purchases by executive agencies under exceptions set forth in § 101-26.301, must be made in accordance with the Procurement List published by the Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped. Products and services offered by the blind shall be given precedence over those offered by other severely handicapped persons. (See § 101-26.702(d) for priority accorded to products manufactured by Federal Prison Industries, Inc.)

(c) Products produced by workshops for the blind or other severely handicapped persons which are available from GSA supply distribution facilities are designated by an asterisk(*) preceding the national stock number in the Procurement List identified in paragraph (b) of this section.

[39 FR 20599, June 12, 1974, as amended at 40 FR 7619, Feb. 21, 1975]

§ 101-26.702 Purchase of products manufactured by the Federal Prison Industries, Inc.

(a) Purchases by executive agencies of prison-made products carried in GSA supply distribution facilities must be made as provided in Subpart 101-26.3.

(b) Purchases by all Federal agencies of prison-made products not carried in GSA supply distribution facilities, or supply items procured under exceptions set forth in § 101-26.301, must be made in accordance with the provisions in the Schedule of Products Made in Federal Penal and Correctional Institutions.

(c) Prison-made products which are available from GSA supply distribution facilities are designated by an asterisk (*) preceding the national stock number in the product schedule referred to in paragraph (b) of this section.

(d) Products available from Federal Prison Industries, Inc., shall be accorded priority over products offered for sale by the workshops of the blind and other severely handicapped persons.

[39 FR 20599, June 12, 1974, as amended at 40 FR 7619, Feb. 21, 1975]

§ 101-26.703 Marginally punched continuous forms.

GSA has delegated authority to the U.S. Government Printing Office (GPO) to procure all marginally punched continuous forms for use by Federal agencies except those procured by GSA for stock. Therefore, all Federal agencies shall submit their requirements for such forms in accordance with the provisions of this § 101-26.703.

(a) Except for those marginally punched continuous forms which GSA procures for stock, all requirements for such forms shall be ordered from GPO contracts or other established GPO sources. If an item is available from GSA stock, acquisition shall be from this source.

(b) Requirements for marginally punched continuous forms which are not available from GPO or GSA sources or which exceed the maximum monetary limitations of the GPO contract shall be submitted to GPO for appropriate action. If requirements are less than the minimum orders/shipment limitations of the GPO contract, agencies may procure them directly from commercial sources.

§ 101-26.704 Purchase of nonperishable subsistence (NPS) items.

With the exception of condiment packages in Federal supply classes 8940 and 8950, managed by the Defense Logistics Agency's Defense Personnel Support Center, all nonperishable subsistence items in Federal supply group 89, Subsistence Items, are managed by and available from the Veterans Administration (VA). These items are listed in the Subsistence Catalog, which is available from the Director, Supply Service (134A), Veterans Administration, Washington, D.C. 20420.

[43 FR 29005, July 5, 1978]

Subpart 101-26.8—Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings

SOURCE: 41 FR 56320, Dec. 28, 1976, unless otherwise noted.

§ 101-26.800 Scope of subpart.

This subpart prescribes a uniform system for reporting discrepancies or deficiencies in material or shipments and processing requests for or documenting adjustments in billings from or directed by GSA or Department of Defense (DOD) activities.

§ 101-26.801 Applicability.

This subpart is applicable to all civilian executive agencies, including their contractors and subcontractors when authorized. DOD activities should follow the applicable DOD or military service/agency regulations in reporting discrepancies or deficiencies in shipments or material, or requesting adjustments in billings from or directed by GSA unless exempted therefrom, in which case the provisions of this § 101-26.801 apply.

§ 101-26.802 Exclusions.

The provisions of this regulation are not applicable to shipments and billings related to the stockpile of strategic and critical materials or excess or surplus property; or to billings for services, space, communications, and printing.

§ 101-26.803 Discrepancies or deficiencies in shipments, material, or billings.

§ 101-26.803-1 Reporting discrepancies or deficiencies.

(a) When discrepancies or deficiencies are incurred in shipments or material, activities shall document these discrepancies or deficiencies with sufficient information to enable initiation and processing of claims against carriers and suppliers for shortages, damages, and the disposition of any overages or incorrect items. Procedures for documenting these discrepancies or deficiencies, including those for documenting and reporting quality deficiencies, are set forth in the GSA Handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings, promulgated by the Commissioner, Federal Supply Service. Copies of this handbook may be obtained by submitting a completed GSA Form 457, FSS Publications Mailing List Application, in accordance with the instructions on the form. The mailing list code for this handbook is ODDH-0001. Copies of GSA Form 457 may be obtained from the GSA regional office servicing the area in which the requesting activity is located or by writing the General Services Administration, Centralized Mailing List Services, Building 41, Denver Federal Center, Denver, CO 80225.

(b) Reports shall be prepared promptly and mailed to the appropriate GSA or DOD office in order to avoid delay in adjustment actions and complication of claim actions against carriers or suppliers.

[41 FR 56320, Dec. 28, 1976, as amended at 45 FR 31315, May 13, 1980]

§ 101-26.803-2 Adjustments.

GSA and DOD will adjust billings whenever the difference involved, resulting from over or under charges or discrepancies or deficiencies in shipments or material, exceeds $25 per line item on a bill submitted in accordance with the provisions of this Subpart 101-26.8 and the GSA Handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings.

Subparts 101-26.9—101-26.47 [Reserved]

Subpart 101-26.48—Exhibits

§ 101-26.4800 Scope of subpart.

This Subpart 101-26.48 illustrates information referenced in the text of Part 101-26 but not suitable for inclusion elsewhere in that part.

[32 FR 17939, Dec. 15, 1967]

§ 101-26.4801 Procurement leadtimes.

The following table shall be used to estimate delivery dates of items purchased by GSA for other agencies:

Federal supply classification (FSC) codes	Commodities	Leadtime in calendar days [1]
1000-1399	Weapons, ammunition, and explosives	150
1400-1599	Civil aircraft	150
[2] 1600-2499	Aircraft components, railway equipment, and motor vehicles...	285
2500-2599	Vehicle parts	100
2600-2799	Tires and tubes	135
2800-2899	Engines, turbines, and parts	175
2900-3199	Engine accessories, power equipment, and bearings	175
3200-3499	Woodworking and metalworking machinery	180
3500-3599	Service and trade equipment	150
3600-3699	Special industry machinery	150
3700-3799	Agricultural machinery and equipment	250
[3] 3800-3999	Construction, highway, and materials handling equipment	195
4000-4099	Rope, cable, chain, and fittings	140
4100-4199	Refrigeration and air-conditioning equipment	150
4200-4219	Firefighting equipment other than fire trucks	135
4210	Fire trucks	400
4220-4299	Rescue and safety equipment	135
4300-4399	Pumps and compressors	130
4400-4499	Furnace, steam plant, and drying equipment	190
4500-4899	Plumbing, heating, and related equipment	150
4900-5099	Maintenance and repair shop equipment	175

Federal supply classification (FSC) codes	Commodities	Lead-time in calendar days [1]
5100-5129	Handtools, nonpowered	170
5130-5132	Handtools, power-driven	180
5133-5139	Drill bits, taps, dies, and collets	120
5140-5179	Tool and hardware boxes	135
5180-5199	Sets, kits, and outfits of handtools	180
5200-5299	Measuring tools	120
5300-5339	Screws, fasteners, and nails	135
5340-5344	Miscellaneous hardware	135
5345-5399	Disks, stones, and abrasives	135
5400-5499	Prefabricated structures	165
5500-5599	Lumber	135
5600-5799	Construction and building materials	140
[4]5800-5899	Communication equipment	150
5900-5959	Electrical and electronic components	135
5970-5999	Electrical parts	150
6000-6199	Electrical wire	175
6200-6299	Lighting fixtures and lamps	140
6300-6399	Alarm and signal systems	95
6400-6599	Medical, dental, and veterinary equipment and supplies	150
6600-6699	Instruments and laboratory equipment	150
6700-6799	Photographic equipment	135
6800-7099	Chemicals, training materials, and data processing and related equipment and supplies	175
7100-7109	Household furniture	210
7110-7121	Office furniture	255
7125-7194	Cabinets, lockers, bins, and shelving	255
7195-7199	Miscellaneous furniture and fixtures	255
7200-7219	Household furnishings	140
7220-7229	Floor coverings	250
7230-7239	Draperies, awnings, and shades	150
7240-7289	Household and commercial containers	140
7290-7299	Miscellaneous household and commercial furnishings and appliances	140
7300-7329	Food, cooking, baking, and warming kitchen equipment	150
7330-7399	Kitchen handtools and utensils	140
7400-7459	Office machines	120
7460-7489	Visible record equipment	150
7490-7499	Miscellaneous office machines	110
7500-7519	Office supplies	150
7520-7529	Office devices and accessories	150
7530-7539	Stationery and record forms	150
7540-7599	Standard forms	160
7600-7699	Books and other publications	180
7700-7799	Musical instruments, phonographs, and radios	150
7800-7899	Recreational and athletic equipment	150
7900-7999	Cleaning equipment and supplies	140
8000-8019	Paints, varnishes, enamels, etc	120
8020-8029	Brushes, paint and artist	150
8030-8099	Sealers and adhesives	150
8100-8299	Containers, packaging, and packing supplies	140
8300-8399	Textiles, leathers, and furs	160
8400-8499	Clothing and individual equipment	160
8500-8519	Perfumes and toiletries	145
8520-8539	Toilet soap and personal toiletry articles	180
8540-8599	Toiletry paper products	130
8600-8899	Agricultural supplies and live animals	150
8900-9099	Subsistence	150
9300-9399	Nonmetallic fabricated materials	155
9400-9799	Nonmetallic crude materials, metals, and ores	150
9800-9999	Miscellaneous	150

[1] Deduct 30 d from time shown when total requirements can be made under small purchase procedures.

[2] For vehicles in Federal supply classes 2310, 2320, and 2330 included in GSA's consolidated volume and monthly purchase programs, see sec. 101-26.501-4 for procurement and delivery time schedules. For other vehicles in these classes and those in Federal supply class 2340, the leadtime shown is for standard vehicles without special features or attachments.

[3] The following classes will be considered on an individual basis because of special features that may be required. The leadtime shown is for routine requirements:

Federal supply classification (FSC) codes	Items
3805	Earth moving and excavating equipment.
3810	Cranes and crane-shovels.
3895	Miscellaneous construction equipment.

[4] All classes in FSC group 58, communication equipment, will be considered on an individual basis because of special features that may be required. The leadtime shown is for routine requirements.

[41 FR 43722, Oct. 4, 1976]

Subpart 101-26.49—Illustrations of Forms

§ 101-26.4900 Scope of subpart.

This subpart illustrates forms prescribed or available for use in connection with subject matter covered in other subparts of Part 101-26.

[29 FR 14729, Oct. 29, 1964]

§ 101-26.4901 Standard forms.

(a) The Standard forms are illustrated in this section to show their text, format, and arrangement and to provide a ready source of reference. The subsection numbers in this section correspond with the Standard form numbers.

(b) The Standard forms illustrated in this § 101-26.4901 may be obtained by submitting a requisition in FEDSTRIP/MILSTRIP format to the

GSA regional office providing support to the requesting agency.

[32 FR 15754, Nov. 16, 1967, as amended at 41 FR 34633, Aug. 16, 1976]

§ 101-26.4901-149 Standard Form 149, U.S. Government National Credit Card.

Note: The form illustrated in § 101-26.4901-149 is filed as part of the original document.

[37 FR 18536, Sept. 13, 1972]

§ 101-26.4902 GSA forms.

(a) The GSA forms are illustrated in this § 101-26.4902 to show their text, format, and arrangement and to provide a ready source of reference. The subsection numbers in this section correspond with the GSA form numbers.

(b) Agency field offices may obtain the GSA forms illustrated in this § 101-26.4902 by submitting their requirements to their Washington headquarters office which will forward consolidated annual requirements to the General Services Administration (BRO), Washington, DC 20405.

[31 FR 7235, May 18, 1966, as amended at 41 FR 34633, Aug. 16, 1976]

§ 101-26.4902-457 GSA Form 457, FSS Publications Mailing List Application.

Note: The form illustrated in § 101-26.4902-457 is filed as part of the original document.

[40 FR 31224, July 25, 1975]

§ 101-26.4902-1398 GSA Form 1398: Motor vehicle purchase and inspection label.

Note: The Form illustrated in § 101-26.4902-1398 is filed as part of the original document.

[39 FR 20683, June 13, 1974]

§ 101-26.4902-1424 GSA Form 1424, GSA Supplemental Provisions.

Note: The form illustrated in § 101-26.4902-1424 is filed as part of the original document and does not appear in the Federal Register.

[44 FR 24060, Apr. 24, 1979]

§ 101-26.4902-1781 GSA Form 1781, Motor Vehicle Requisition—Delivery Order—Invoice.

Note.—The form illustrated in § 101-26.4902-1781 is filed as part of the original document and does not appear in the Federal Register.

[43 FR 32768, July 28, 1978]

§ 101-26.4902-2891 GSA Form 2891: Instructions to Users of Federal Supply Schedules.

Note: The form illustrated in § 101-26.4902-2891 is filed as part of the original document and does not appear in the Federal Register.

[43 FR 24533, June 6, 1978]

§ 101-26.4904 Other agency forms.

This section illustrates forms issued by other agencies which are prescribed or available for use in connection with subject matter covered in other subparts of Part 101-26. The issuing activity is also identified in the section requiring the use of such forms. The forms are illustrated to show their text, format, and arrangement and to provide a ready source of reference. The subsection numbers in this section correspond with the applicable agency form numbers.

[34 FR 19979, Dec. 20, 1969]

§ 101-26.4904-416 DD Form 416: Purchase Request for Coal, Coke, or Briquettes.

Note: The form illustrated in § 101-26.4904-416 is filed as part of the original document.

[40 FR 31224, July 25, 1975]

PART 101-27—INVENTORY MANAGEMENT

Sec.
101-27.000 Scope of part.

Subpart 101-27.1—Stock Replenishment

101-27.101 General.
101-27.102 Economic order quantity principle.
101-27.102-1 Applicability.
101-27.102-2 Guidelines.
101-27.102-3 Limitations on use.
101-27.103 Acquisition of excess property.

Subpart 101-27.2—Management of Shelf-Life Materials

101-27.201 Scope of subpart.
101-27.202 Applicability.
101-27.203 Program objectives.
101-27.204 Types of shelf-life items.
101-27.205 Shelf-life codes.

Sec.
101-27.206 Procurement of shelf-life materials.
101-27.206-1 General considerations.
101-27.206-2 Identification and shipping requirements.
101-27.206-3 Packaging.
101-27.207 Control and inspection.
101-27.207-1 Agency controls.
101-27.207-2 Inspection.
101-27.207-3 Marking material to show extended shelf life.
101-27.208 Inventory analyses.
101-27.209 Utilization and distribution of shelf-life items.
101-27.209-1 GSA stock items.
101-27.209-2 Items to be reported as excess.
101-27.209-3 Disposition of unneeded property.

Subpart 101-27.3—Maximizing Use of Inventories

101-27.300 Scope.
101-27.301 [Reserved]
101-27.302 Applicability.
101-27.303 Reducing long supply.
101-27.303-1 Cancellation or transfer.
101-27.303-2 Redistribution.
101-27.304 Criteria for economic retention limits.
101-27.304-1 Establishment of economic retention limit.
101-27.304-2 Factors affecting the economic retention limit.
101-27.305 Disposition of long supply.

Subpart 101-27.4—Elimination of Items From Inventory

101-27.400 Scope of subpart.
101-27.401 [Reserved]
101-27.402 Applicability.
101-27.403 General.
101-27.404 Review of items.
101-27.405 Criteria for elimination.
101-27.406 Disposition of stock.

Subpart 101-27.5—Return of GSA Stock Items

101-27.500 Scope and applicability of subpart.
101-27.501 Eligibility for return.
101-27.502 Criteria for return.
101-27.503 Allowable credit.
101-27.503-1 Serviceable material.
101-27.503-2 Unserviceable or incomplete material.
101-27.504 Notice to GSA.
101-27.505 Notice to activity.
101-27.506 Determination of acceptability for credit.
101-27.507 Transportation and other costs.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 101-27.000 Scope of part.

This part provides policies, principles, and guidelines to be used in the management of Government-owned inventories of personal property.

[29 FR 15997, Dec. 1, 1964]

Subpart 101-27.1—Stock Replenishment

§ 101-27.101 General.

Each agency shall establish and maintain such control of personal property inventories as will assure that the total cost involved will be kept to the minimum consistent with program needs. For purposes of stock replenishment, inventories may be considered to be composed of active inventory which is that portion carried to satisfy average expected demand, and safety stock which is that portion carried for protection against stock depletion occurring when demand exceeds average expected demand, or when leadtime is greater than anticipated.

(a) In establishing active inventory levels, consideration shall be given to the average demand of individual items, space availability, procurement costs, inventory carrying costs, purchase prices, quantity discounts, transportation costs, other pertinent costs, and statutory and budgetary limitations.

(b) In establishing safety stock levels, consideration shall be given to demand and leadtime fluctuations, essentiality of items, and the additional costs required to achieve additional availability.

[29 FR 15997, Dec. 1, 1964]

§ 101-27.102 Economic order quantity principle.

The economic order quantity (EOQ) principle is a means for achieving economical inventory management. Application of the EOQ principle reduces total variable costs of procurement and possession to a minimum.

[41 FR 3858, Jan. 27, 1976]

§ 101-27.102-1 Applicability.

All executive agencies, except the Department of Defense, within the United States, excluding Alaska and Hawaii, shall replenish inventories of stock items having recurring demands, except items held at points of final use, in accordance with the economic order quantity (EOQ) principle.

[29 FR 15997, Dec. 1, 1964]

§ 101-27.102-2 Guidelines.

Guidelines for implementing the EOQ principle of stock replenishment are in the GSA Handbook, The Economic Order Quantity Principle and Applications, issued by the Federal Supply Service, GSA. The handbook is identified under national stock number 7610-00-543-6765 in the GSA Supply Catalog, and copies may be obtained by agencies in the same manner as other items in that catalog. The public may purchase the handbook from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

[41 FR 3858, Jan. 27, 1976]

§ 101-27.102-3 Limitations on use.

(a) When there are no limiting factors which preclude its application, such as space or budgetary limitations, the basic EOQ techniques shall be used.

(b) When a space, personnel, or budgetary limitation precludes application of the basic EOQ technique, a modification of the technique may be made provided the modification produces:

(1) The fewest possible replenishments for a given level of inventory investment; or

(2) The lowest possible level of inventory investment for a given number of replenishments.

(c) When quantity purchase discounts or volume transportation rates will produce savings greater than the increased variable costs involved in procurement and possession, the economic purchase quantity (EPQ) principle shall be used as described in the GSA Handbook. The Economic Order Quantity Principle and Applications.

[29 FR 15997, Dec. 1, 1964, as amended at 31 FR 9541, July 14, 1966; 41 FR 3858, Jan. 27, 1976]

§ 101-27.103 Acquisition of excess property.

Except for inventories eligible for return to GSA for credit pursuant to the provisions of § 101-27.501 and for inventories for which an economic retention limit has been established in accordance with the provisions of Subpart 101-27.3 of this part, inventory levels may be adjusted upward when items of stock are to be acquired from excess sources. Such adjustments should be tempered by caution and arrived at after careful consideration. Generally, acquisitions of items for inventory from excess sources shall not exceed a 2-year supply except when:

(a) A greater quantity is needed to meet known requirements for an authorized planned program.

(b) The item is not available without special manufacture and a predictable requirement exists.

(c) Administrative determination has been made that in application of the EOQ principle of stock replenishment within an agency an inventory level in excess of 2 years is appropriate for low dollar-volume items.

(d) The items are being transferred into authorized stock funds for resale to other Government agencies.

[34 FR 200, Jan. 7, 1969, as amended at 41 FR 3858, Jan. 27, 1976]

Subpart 101-27.2—Management of Shelf-Life Materials

§ 101-27.201 Scope of subpart.

This subpart provides for the identification, designation of useful life, and establishment of controls for shelf-life items to minimize loss and insure maximum use prior to deterioration. A shelf-life item is any item possessing deteriorative or unstable characteristics to the degree that a storage period must be assigned to assure the issuance of material that will perform satisfactorily in service.

[32 FR 6493, Apr. 27, 1967]

§ 101-27.202 Applicability.

This Subpart 101-27.2 is applicable to all executive agencies except the Department of Defense. The principles and objectives prescribed in this subpart are in consonance with those adopted by the Department of Defense in the establishment of shelf-life procedures for use by military activities.

[32 FR 6493, Apr. 27, 1967]

§ 101-27.203 Program objectives.

In order to assure maximum use of shelf-life items, each executive agency shall:

(a) Identify shelf-life items, including any new items to be placed in inventory, which have a limited shelf-life period.

(b) Establish the shelf-life period of such items and procedures for controlling their procurement, storage, and issue.

(c) Inspect or test certain shelf-life items prior to deterioration to determine if the shelf-life period can be extended.

(d) Conduct inventory management analyses to determine if shelf-life stocks are expected to be utilized prior to the expiration of the original or any extended shelf-life period, and, if not, arrange for transfer of such stock in sufficient time to permit usage prior to deterioration.

(e) Make available for Government-wide distribution, through excess property channels, any stocks which cannot be utilized through normal supply channels.

[32 FR 6493, Apr. 27, 1967]

§ 101-27.204 Types of shelf-life items.

Shelf-life items are classified as nonextendable (type I) and extendable (type II). Type I items have a definite storage life after which the item or material is considered to be no longer usable for its primary function and should be discarded. Type II items are those for which successive reinspection dates can be established when the items have a continued usability as determined by examination based upon criteria that have been agreed upon. Examples of type I items are drugs and medicines with certain characteristics. Examples of type II items are paint and ink.

[40 FR 59595, Dec. 29, 1975]

§ 101-27.205 Shelf-life codes.

Shelf-life items shall be identified by use of a one-digit code to provide for uniform coding of shelf-life materials by all agencies.

(a) The code designators for shelf-life periods of up to 60 months are as follows:

Shelf-life period (months)	Type I item code	Type II item code
1	A	
2	B	
3	C	1
4	D	
5	E	
6	F	2
9	G	3
12	H	4
15	J	
18	K	5
21	L	
24	M	6
27	N	
30	P	
36	Q	7
48	R	8
60	S	9

(b) Code designator 0 is used to identify items not included in a shelf-life program.

(c) Code designator X shall be used to identify critical end-use items, military essential items, and medical items with a shelf life greater than 60 months. Agencies shall establish controls for such materials to prevent issuance of any unserviceable items.

(d) Agencies may also establish controls for materials with a shelf life greater than 60 months that are not identified in paragraph (c) of this section. Such controls should be established only when they are necessary for effective management of the items.

[40 FR 59595, Dec. 29, 1975]

§ 101-27.206 Procurement of shelf-life materials.

[40 FR 59595, Dec. 29, 1975]

§ 101-27.206-1 General considerations.

In determining requirements for shelf-life items, the following elements should be taken into consideration:

(a) Assigned storage time periods; and

(b) Appropriate contracting techniques for the particular item involved, including specification requirements, industry practices, and storage and delivery procedures.

[40 FR 59595, Dec. 29, 1975]

§ 101-27.206-2 Identification and shipping requirements.

Manufacturers shall, whenever practicable, be required to mark the unit or container with the month and year of manufacture or production and the batch number on all shelf-life items (60 months or less) procured from other than GSA sources. Whenever practical, the supplier shall be required to ship or deliver material within a given number of months from the date of manufacture or production. These "age on delivery" requirements should not be imposed in such a manner as to unduly restrict competition at any trade level. The following guidelines are suggested as appropriate for most shelf-life items:

Shelf-life period	Age on delivery
25 mos. or more	6 mos.
19 to 24 mos	4 mos.
13 to 18 mos	3 mos.
7 to 12 mos	2 mos.
6 mos. or less	1 mo. or less.

[40 FR 59595, Dec. 29, 1975]

§ 101-27.206-3 Packaging.

To the extent feasible and economical, shelf-life material shall be packaged in such a way as to provide for minimum deterioration.

[40 FR 59595, Dec. 29, 1975]

§ 101-27.207 Control and inspection.

[40 FR 59596, Dec. 29, 1975]

§ 101-27.207-1 Agency controls.

Agencies shall establish the necessary controls to identify shelf-life items on their stock records (and in other appropriate elements of their supply system), and shall determine the appropriate shelf life for other than GSA managed items. Shelf-life items shall be stored in such a way as to ensure that the oldest stock on hand is issued first. Agencies shall issue the oldest stock of shelf-life items first except when it is not feasible as in shipments to overseas activities.

[40 FR 59596, Dec. 29, 1975]

§ 101-27.207-2 Inspection.

Type II items remaining in stock immediately before the end of the designated shelf-life period shall be inspected to determine whether the shelf life can be extended, except items having a line item inventory value of $300 or less, or if the cost of inspection or testing is significant in relation to the value of the item. If the material is found suitable for issue on the date of inspection, the shelf life should be extended for a period equal to 50 percent of the original shelf-life period and the next reinspection date established accordingly. Material should be reinspected before the end of each extended shelf-life period and the shelf life extended again up to 50 percent of the original shelf life as long as the material conforms to the established criteria. Material on which the shelf life has been extended shall not be shipped to overseas activities if the time remaining in the extended shelf-life period is relatively short.

[40 FR 59596, Dec. 29, 1975]

§ 101-27.207-3 Marking material to show extended shelf-life.

When the shelf-life period of type II material (except for critical end-use items as described below) is extended, only the exterior containers of bulk stocks need be annotated or labeled to indicate the date of inspection and date material is to be reinspected. Individual units of issue not classified as having a critical end-use application are not required to be annotated or labeled as long as controls are established to preclude issuance of unserviceable material to a user. (A critical end-use item is any item which is essential to the preservation of life in emergencies; e.g., parachutes, marine life preservers, and certain drug products, or any item which is essential to the performance of a major system;

e.g., aircraft, the failure of which would cause damage to the system or endanger personnel.) At the time of shipment, the date of inspection and date for reinspection shall be affixed by label or marked by other means on each unit of issue of type II items having a critical end-use application.

[42 FR 61861, Dec. 7, 1977]

§ 101-27.208 Inventory analyses.

(a) An inventory analysis shall be conducted periodically for each type I item to determine whether the quantity on hand will be used within the established shelf-life period. If the analysis indicates there are quantities which will not be used within the shelf-life period, arrangements shall be made to ensure use of the item(s) within the holding agency or for redistribution to other agencies.

(b) An inventory analysis shall be conducted periodically for each type II item with a shelf life of 60 months or less to determine whether issue of the quantity on hand is anticipated prior to the expiration of the designated shelf life. This analysis shall be made as follows:

Shelf-life period	Date of analysis
48 to 60 mos	12 to 16 mo. prior to expiration.
36 to 48 mos	8 to 12 mo. prior to expiration.
18 to 36 mos	6 to 8 mo. prior to expiration.
12 to 18 mos	4 to 6 mo. prior to expiration.
6 to 12 mos	3 to 4 mo. prior to expiration.
Up to 6 mos	No analysis required, but special emphasis should be placed on good requirements determination and proper order quantity.

(1) If the analysis indicates that the quantity on hand will not be issued within the shelf-life period and the cost of inspection or testing is not significant in relation to the line item value, the items shall be inspected to determine if the shelf-life period can be extended.

(2) If the analysis indicates that the quantity on hand will be issued within the shelf-life period, inspection is not required. However, such items shall be viewed again during the last month of the shelf-life period to determine whether quantities are sufficient to warrant inspection. The guidelines in § 101-27.207-2 shall be used to determine whether quantities are sufficient to warrant inspection and for extending the shelf-life period.

(3) If an agency does not have an inspection capability and the quantity and value of an indicated overage is sufficiently large to warrant special consideration, arrangements shall be made for qualified inspection or laboratory testing to determine whether the material is suitable for issue.

[40 FR 59596, Dec. 29, 1975]

§ 101-27.209 Utilization and distribution of shelf-life items.

Where it is determined that specified quantities of both Type I and Type II shelf-life items will not be used within the shelf-life period, such quantities shall be utilized or distributed in accordance with this section.

[35 FR 5010, Mar. 24, 1970]

§ 101-27.209-1 GSA stock items.

Shelf-life items that meet the criteria for return under the provisions of Subpart 101-27.5 of this part may be offered for return to GSA.

[35 FR 12721, Aug. 11, 1970]

§ 101-27.209-2 Items to be reported as excess.

Shelf-life items which do not meet the criteria in Subpart 101-27.5 of this part, which would, if returned to GSA, adversely affect the GSA nationwide stock position, or which are returned to GSA and are determined unsuitable for issue, will be reported as excess under the provisions of Part 101-43 of this chapter.

[35 FR 12721, Aug. 11, 1970]

§ 101-27.209-3 Disposition of unneeded property.

If no transfer is effected and no donation requested, the property shall be assigned for sale, abandonment, or destruction in accordance with Part 101-45 of this chapter.

[32 FR 6493, Apr. 27, 1967]

Subpart 101-27.3—Maximizing Use of Inventories

SOURCE: 32 FR 13456, Sept. 26, 1967, unless otherwise noted.

§ 101-27.300 Scope.

This subpart prescribes policy and procedures to assure maximum use of inventories based upon recognized economic limitations.

§ 101-27.301 [Reserved]

§ 101-27.302 Applicability.

The provisions of this subpart are applicable to all civil executive agencies.

§ 101-27.303 Reducing long supply.

Through effective interagency matching of material and requirements before the material becomes excess, unnecessary procurements and investment losses can be reduced. Timely action is required to reduce inventories to their normal stock levels by curtailing procurement and by utilizing and redistributing long supply. (The term "long supply" means the increment of inventory of an item that exceeds the stock level criteria established for that item by the inventory manager, but excludes quantities to be declared excess.) In this connection, requirements for agency managed items should be obtained from long supply inventories offered by agencies rather than by procurement from commercial sources. Because supply requirements usually fluctuate over a period of time, a long supply quantity which is 10 percent or less of the total stock of the item is considered marginal and need not be reduced.

[41 FR 3858, Jan. 27, 1976]

§ 101-27.303-1 Cancellation or transfer.

When the long supply of an item, including quantities due in from procurement, is greater than 10 percent of the total stock of that item, the inventory manager, or other appropriate official, shall cancel or curtail any outstanding requisitions or procurements on which award has not been made for such items, and may also cancel contracts for such items (if penalty charges would not be incurred) or transfer the long supply, if economical, to other offices within the agency in accordance with agency utilization procedures. In such cases, acquisition of long supply items shall not be made from other sources such as requirements contracts.

§ 101-27.303-2 Redistribution.

If the long supply of an item remains greater than 10 percent of the total stock of an item despite efforts to cancel or transfer the long supply as provided in § 101-27.303-1, the inventory manager shall offer the long supply to another agency or other agencies in accordance with this § 101-27.303-2. Before offering a long supply to any agency, the inventory manager shall determine whether the item to be offered is a centrally managed item or an agency managed item. A centrally managed item is an item of supply or equipment which forms part of an inventory of an agency performing a mission of storage and distribution to other Government activities; e.g., GSA and DSA. An agency managed item is a procured item that forms a part of a controlled inventory of an agency and its activities for issue internally for its own use. After determining whether the item to be offered is an agency or centrally managed item, the inventory manager shall:

(a) Offer centrally managed items to the agency managing the item for return and credit in accordance with the procedures established by that agency; and

(b) Offer agency managed items to other agencies which manage the same item. Reimbursement shall be arranged by the agencies effecting the inventory transfer. The responsibility of locating agencies or activities requiring these items shall rest with the agency holding the long supply. However, agencies may receive a list of Government activities using particular national stock numbers by writing to the General Services Administration (FFL), Washington, DC 20406.

[32 FR 13456, Sept. 26, 1967, as amended at 41 FR 3858, Jan. 27, 1976]

§ 101-27.304 Criteria for economic retention limits.

If a long supply continues to exceed 10 percent of the total stock of an item despite efforts to redistribute the long supply as provided in § 101-27.303-2, the inventory manager shall establish an economic retention limit for the item in accordance with the provisions of this § 101-27.304. An economic retention limit is the maximum quantity of an item that can be held in stock without incurring greater costs for carrying the stock than the costs for disposal and resulting loss of investment. The economic retention limit shall be used to determine which portion of the inventory may be economically retained and which portion should be disposed of as excess.

[41 FR 3858, Jan. 27, 1976]

§ 101-27.304-1 Establishment of economic retention limit.

An economic retention limit must be established for inventories so that the Government will not incur any more than the minimum necessary costs to provide stock of an item at the time it is required. Generally, it would be more economical to dispose of stock in excess of the limit and procure stock again at a future time when the need is more proximate rather than incur the cumulative carrying costs.

(a) The agency managing a centrally managed or agency managed item shall establish an economic retention limit so that the total cumulative cost of carrying a stock of the item (including interest on the capital that is tied up in the accumulated carrying costs) will be no greater than the reacquisition cost of the stock (including the procurement or order cost). Consideration should be given to any significant net return that might be realized from present disposal of the stock. Where no information has been issued, the net return from disposal is assumed to be zero. Guidelines for setting stock retention limits are provided in the following table and explanatory remarks that follow:

Annual carrying costs as a percentage of item reacquisition costs	Economic retention limit in years of supply—net return on disposal as a percentage of item reacquisition costs				
	0	5	10	15	20
10	7¼	6¾	6¼	6	5½
15	5½	5	4¾	4¼	4
20	4¼	4	3¾	3½	3¼
25	3½	3¼	3	3	2¾
30	3	2¾	2¾	2½	2¼
35	2¾	2½	2¼	2¼	2
40	2½	2¼	2	2	1¾

NOTE: The entries in the tables were calculated by determining how long an item must be carried in inventory before the total cumulative carrying costs (including interest on the additional funds that would be tied up in the accumulated annual carrying costs) would exceed the acquisition costs of the stock, at that time (reacquisition costs). For example, assuming no net return from disposal, the accumulated carrying costs computed at the rate of 25 percent per year on the reacquisition cost of the stock and compounded annually at 10 percent (GSA's recommended rate of interest on Government investments) would be:

Years	Compounded carrying costs as a percentage of reacquisition	Accumulated costs as a percentage of reacquisitioned costs
1	27.5	27.5
2	30.3	57.8
3	33.3	91.1
4	36.6	127.7
5	40.3	168.0
6	44.3	212.3

At 25 percent a year, accumulated carrying costs would be equivalent to the reacquisition costs after 3½ years. Three and one-half years is, therefore, the economic retention limit for items with a 25 percent annual carrying cost rate. Where an activity has not yet established an estimate of its carrying cost, an annual rate of 10 percent may be used as an interim rate thereby resulting in an economic retention limit of 7¼ years when the net return on disposal is zero. The elements of carrying (holding) cost are given in the GSA Handbook, The Economic Order Quantity Principle and Applications. The handbook is listed in the GSA Supply Catalog and may be ordered in the same manner as other items in the catalog.

(b) The economic retention limit at a user stocking activity can best be determined by the item manager (for centrally managed or agency managed items) on the basis of overall Government requirements and planned procurement. Since stocks in long supply at a user stocking activity are less likely to find utilization outlets, the retention limit at these activities should be relatively small. Generally the economic retention limit at a user stocking activity should be computed in the same manner as in paragraph (a) of this section and then reduced by 70 percent.

[39 FR 27902, Aug. 2, 1974]

§ 101-27.304-2 Factors affecting the economic retention limit.

(a) The economic retention limit may be increased where:

(1) The item is of special manufacture and relates to an end item of equipment which is expected to be in use beyond the economic retention time limit; or

(2) Costs incident to holding an additional quantity are insignificant and obsolescence and deterioration of an item are unlikely.

(b) The economic retention limit should be reduced under the following conditions:

(1) The related end item of equipment is being phased out or an interchangeable item is available; or

(2) The item has limited storage life, is likely to become obsolete, or the age and condition of the item does not justify the full retention limit.

§ 101-27.305 Disposition of long supply.

Where efforts to reduce the inventory below the economic retention limit have been unsuccessful, appropriate disposition should be effected in accordance with Subpart 101-43.3 of this chapter. Any remaining inventory which is within the economic retention limit shall be retained. However, the item shall be reviewed at least annually and efforts made to reduce the long supply inventory in accordance with § 101-27.303.

Subpart 101-27.4—Elimination of Items From Inventory

Source: 32 FR 12401, Aug. 25, 1967, and 32 FR 12721, Sept. 2, 1967, unless otherwise noted.

§ 101-27.400 Scope of subpart.

This subpart establishes policy and procedures designed to assure that items which can be obtained more economically from readily available sources, Government or commercial, are eliminated from inventory. For items which are not readily available from Government or commercial sources or are being held in inventory for a one time construction project, this subpart shall be applied to the extent feasible by the activity managing or controlling such inventories.

§ 101-27.401 [Reserved]

§ 101-27.402 Applicability.

The provisions of this subpart are applicable to all executive agencies in connection with inventory items maintained at stocking activities other than Government wholesale supply sources.

§ 101-27.403 General.

By eliminating inactive items and slow-moving items which are readily available, when needed, from Government wholesale supply activities or from commercial sources, the costs to the Government in inventory investment and for maintaining the items in inventory can be eliminated. An "inactive item" is an item for which no current or future requirements are recognized by previous users and the item manager. A "slow-moving item" is an item for which there are current or future requirements, but the frequency and quantity of such requirements do not make it economical to stock them in lieu of obtaining requirements from other sources when needed. However, "standby or reserve items" are not to be eliminated from inventories. A "standby or reserve item" is an item for which a reserve stock is held so that the items will be available immediately to meet emergencies for which there is insufficient time to procure or requisition the items without endangering life or causing substantial financial loss to the Government.

[41 FR 3859, Jan. 27, 1976]

§ 101-27.404 Review of items.

Except for standby or reserve stocks, items in inventory shall be reviewed periodically (at least annually) to identify those which are inactive and slow-moving. This review may be conducted coincidently with the normal replenishment or long supply reviews. The estimate of current or future requirements for an item shall be based on its recent history of recurring requirements. Standby items shall also be reviewed at appropriate intervals to substantiate their qualification for inclusion in that category.

§ 101-27.405 Criteria for elimination.

Inactive items, items which no longer qualify as standby, and slow-moving items which are readily available, when needed, from Government or commercial sources shall be eliminated from inventory. The determination of a slow-moving item shall be based on a comparison of the costs for continuing to maintain it in stock as opposed to the costs for ordering it from outside sources each time it is requested. This comparison shall also consider any difference in price and transportation costs for each alternative. In the absence of criteria for stockage of an item developed and used by an agency, the desired results will be obtained through application of the following table:

Orders per year under economic order quantity (EOQ)	Minimum number of requests per year to justify continuation in stock
12 and over	24
11	22
10	20
9	18
8	16
7	14
6	12
5	10
4	8
3 and under	7

NOTE: Except for the low dollar infrequently ordered item, which requires a higher minimum, an item should be discontinued from stock if the number of requests for it is less than twice its order frequency under EOQ. For example, an item ordered six times per year under EOQ should have at least 12 requests per year to continue stockage. For 11 requests, it would cost less to order each time it was requested.

11 orders at $5 per order	$55
Under EOQ:	
6 orders at $5 per order	$30
Holding cost (equal to ordering cost)	30
Total	60

§ 101-27.406 Disposition of stock.

Stocks of slow-moving items which are not otherwise determined to be eligible for continued stockage shall be eliminated through normal attrition and shall not be replenished. The successive actions indicated in paragraphs (a) through (c) of this section, shall be taken, as necessary, to remove stocks of inactive items from inventory.

(a) Transfer stock to other offices where needed within the agency.

(b) Transfer stock to other agencies as follows:

(1) Centrally managed items to the agency managing the item for credit; or

(2) Agency program items to agencies requiring them.

(c) Dispose of remaining stocks, as excess, after actions taken in paragraphs (a) and (b) of this section, in accordance with Subpart 101-43.3.

Subpart 101-27.5—Return of GSA Stock Items

SOURCE: 35 FR 12721, Aug. 11, 1970, unless otherwise noted.

§ 101-27.500 Scope and applicability of subpart.

This subpart sets forth policy and procedures for the return to GSA for credit of items which are in long supply or for which no current or future requirements are anticipated. The provisions of this Subpart 101-27.5 are applicable to all executive agencies. Federal agencies other than executive agencies may participate in this program and are encouraged to do so.

§ 101-27.501 Eligibility for return.

GSA stock items for which no current or future agency requirements are anticipated are eligible for return to GSA for credit. Despite eligibility for return to GSA, consideration should be given to the transportation costs involved as related to the value of the items, and, where excessive, such items shall not be reported to GSA.

§ 101-27.502 Criteria for return.

Any GSA stock item to be returned to GSA by an agency which has no current or future requirements for that item shall meet the following conditions:

(a) The minimum dollar value per line item, based on the current GSA selling price, shall be:

(1) $50 for hand tools, FSG 51, and measuring tools, FSG 52;

(2) $300 for:

(i) Household furniture, FSC 7105; office furniture, FSC 7110; cabinets, lockers, bins, and shelving, FSC 7125; and miscellaneous furniture and fixtures, FSC 7195;

(ii) Cleaning and polishing compounds and preparations, FSC 7930; and

(iii) Paints, dopes, varnishes, and related products, FSC 8010; preservatives and sealing compounds, FSC 8030; and adhesives, FSC 8040; and

(3) $100 for items in all other Federal supply groups and classes except for Standard forms, FSC 7540; and boxes, cartons, and crates, FSC 8115, which are not returnable and shall be considered excess and processed in accordance with Part 101-43.

(b) The minimum remaining shelf life of this material shall be 12 months at the time of receipt by GSA.

(c) Not be a terminal or discontinued item.

(d) The cost to repair unserviceable material or to replace missing parts or components in such material shall not exceed 60 percent of the current GSA selling price.

[35 FR 12721, Aug. 11, 1970, as amended at 36 FR 9514, May 26, 1971; 38 FR 28568, Oct. 15, 1973; 44 FR 39393, July 6, 1979]

§ 101-27.503 Allowable credit.

Allowable credit for activities returning material that is accepted by GSA will be reflected in billings by GSA.

[41 FR 3859, Jan. 27, 1976]

§ 101-27.503-1 Serviceable material.

Credit will be granted at the rate of 80 percent of the current GSA selling price after acceptance by GSA for new, used, repaired, or reconditioned material which is serviceable and issuable to all agencies without limitation or restriction (condition code A).

[38 FR 28568, Oct. 15, 1973]

§ 101-27.503-2 Unserviceable or incomplete material.

(a) After acceptance by GSA of items with deficiencies which were not the fault of GSA, credit will be granted for the items at a percentage of the current GSA selling price in accordance with the following:

(1) Sixty percent for items which involve limited expenses or effort to restore to serviceable condition (specifically, a deficiency in packing or packaging which restricts the issue or requires repacking or repackaging (condition code E));

(2) Thirty percent when it is economically feasible to repair, overhaul, or recondition the items for return to issuable condition (condition code F); or

(3) Thirty percent when the items require additional parts or components to complete the end item prior to issue (condition code G).

(b) No credit will be given for material returned to GSA which does not meet the above criteria or which was returned to GSA without prior approval.

[44 FR 39394, July 6, 1979]

§ 101-27.504 Notice to GSA.

When an activity elects to offer material to GSA for credit, the activity shall report offers to the Inventory Management Division. The mailing address is General Services Administration (FPIO), Washington, D.C. 20406. Offers may be transmitted by transceiver using the routing identifier, GG0. Offers shall be submitted in accordance with FED STRIP/MILSTRIP.

[41 FR 3859, Jan. 27, 1976]

§ 101-27.505 Notice to activity.

GSA will provide notice to the offering activity of an acceptance/rejection decision for an offer and verification of material receipt for accepted offers.

(a) Within 20 workdays after receipt of an offer to return material, GSA will notify the offering activity of acceptance or rejection of the offer.

(1) For accepted offers, GSA will inform the offering activity of the GSA supply distribution facility to which the material shall be shipped. Prior to shipment of the material authorized by GSA for return, activities shall verify the declared condition. (If the offering activity considers that the transportation costs of sending the material to the GSA supply distribution facility are excessive in relation to the value of the material and withdraws the offer, the GSA region that was designated to receive the offered material shall be notified accordingly.)

(2) For rejected offers, GSA will so inform the activity offering the material and give the reason for nonacceptance.

(b) Upon receipt of material authorized for return by GSA, the offering activity will be provided verification of receipt and a report of any discrepancies. When the discrepant condition is attributable to carrier negligence, subsequent credit allowed by GSA will be reduced by the amount to be paid the agency by the carrier for any damages incurred. A notice of credit will be provided the offering activity through credit entries on the monthly billing statement from the supporting GSA finance center.

(c) When offers of material that have been authorized by GSA for return are withdrawn, offering activities shall report such cancellation to the GSA region that was designated to receive the offered material.

[41 FR 3859, Jan. 27, 1976, as amended at 44 FR 39394, July 6, 1979]

§ 101-27.506 Determination of acceptability for credit.

Returned material will be examined by GSA upon receipt to determine acceptability for credit. Returned material which is unacceptable for credit will be deemed to have been declared excess by the returning activity, and will be disposed of by GSA as excess or surplus in the name of the activity, in accordance with Part 101-43 of this chapter. The returning activity will be officially notified of the disposal action taken by GSA.

§ 101-27.507 Transportation and other costs.

Transportation costs for the movement of material to GSA and handling costs for preparation and shipment shall be paid by the activity shipping the material to GSA.

PART 101-28—STORAGE AND DISTRIBUTION

Sec.

101-28.000 Scope of part.

Subpart 101-28.1 [Reserved]

Subpart 101-28.2—Interagency Cross-Servicing in Storage Activities

101-28.200 Scope of subpart.
101-28.201 Applicability.
101-28.202 GSA/DOD Cross-Servicing Agreement.
101-28.202-1 Request for services.
101-28.202-2 Cancellation of cross-servicing arrangements.
101-28.202-3 Cross-servicing rates.
101-28.202-4 Reimbursement for services.
101-28.203 Definitions.
101-28.203-1 Government storage activity.
101-28.203-2—101-28.203-3 [Reserved]
101-28.203-4 Contact point.

Subpart 101-28.3—Self-Service Stores

101-28.300 Scope of subpart.
101-28.301 Applicability.
101-28.302 Self-service stores.
101-28.303 Use of self-service stores.
101-28.304 Establishment of self-service stores.
101-28.305 Feasibility studies.
101-28.305-1 Initiation and scheduling.
101-28.305-2 Findings and determinations.
101-28.306 Consolidation of functions.
101-28.307 Responsibility for operation.
101-28.308 Shopping plates.
101-28.308-1 General.
101-28.308-2 Description and types.
101-28.308-3 Limitations on use.
101-28.308-4 Obtaining a shopping plate.
101-28.308-5 Expiration or cancellation.
101-28.308-6 Safeguards.
101-28.308-7 Reporting loss or theft.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

SOURCE: 29 FR 15998, Dec. 1, 1964, unless otherwise noted.

§ 101-28.000 Scope of part.

This part prescribes policy and procedures for the economical and efficient management of warehousing and related activities by executive agencies.

Subpart 101-28.1 [Reserved]

Subpart 101-28.2—Interagency Cross-Servicing in Storage Activities

§ 101-28.200 Scope of subpart.

This subpart prescribes policies and procedures to be followed in the cross-servicing of storage and warehousing services between executive agencies of the Government. It implements the provisions of the cross-servicing agreement between the Department of Defense (DOD) and GSA and extends the provisions of the agreement to provide cross-servicing between the civilian agencies of the Government.

§ 101-28.201 Applicability.

(a) The policies and procedures established by this Subpart 101-28.2 are primarily applicable to storage activities within the United States. Executive agencies shall make every effort to utilize available Government storage services of other executive agencies to avoid new construction of storage facilities, acquisition of temporary space, and unnecessary transportation of supplies, material, and equipment to distant storage points. Whenever feasible, the policies and procedures shall be used to cross-service storage and warehousing requirements in overseas storage activities. Available storage services of executive agencies shall be made available for cross-servicing the requirements of other Federal agencies when requested. Other Federal agencies are encouraged to participate in cross-servicing arrangements.

(b) The provisions of this Subpart 101-28.2 do not apply to ocean terminals, Government storage activities financed under industrial funds, activities concerned with the storage and handling of bulk fuels (petroleum products), and storage functions performed by GSA for the Federal Preparedness Agency.

[35 FR 7050, May 16, 1970, as amended at 42 FR 2317, Jan. 11, 1977]

§ 101-28.202 GSA/DOD Cross-Servicing Agreement.

An agreement between GSA and DOD has established procedures to be followed in the cross-servicing of storage and warehousing services between Government agencies. Copies of the agreement, containing a listing of minimum services to be provided, responsibilities of agencies operating storage facilities, responsibilities of requesting agencies, and agency contact points to determine storage availability, may be obtained from the General Services Administration (FFN), Washington, D.C. 20406.

[42 FR 2317, Jan. 11, 1977]

§ 101-28.202-1 Request for services.

Requests for storage and warehousing services shall be in accordance with the procedures set forth in the GSA/DOD cross-servicing agreement. Arrangements incident to the furnishing of services, specific limitations, terms, and conditions shall be agreed to directly by the activities concerned.

[42 FR 2317, Jan. 11, 1977]

§ 101-28.202-2 Cancellation of cross-servicing arrangements.

(a) Accepted requests may be canceled by the requesting agency prior to delivery of supplies, material, and equipment to the storage activity when logistical developments make cancellation necessary or cancellation is in the best interest of the Government. The agency which accepted the request shall be informed of the cancellation in writing as soon as possible.

(b) Cancellation of arrangements in facilities to be inactivated or disposed of by an operating agency may be made as provided for in the GSA/DOD agreement. Also, after supplies, material, and equipment have been received at a storage activity, cancellation may be made when unforeseen emergencies arise which justify such cancellation. Advice of these necessary cancellations shall be in writing to the agency owning the material sufficiently in advance to allow the owning agency the maximum amount of time to make other arrangements for their property.

(c) When a facility in which cross-servicing is being accomplished is to be transferred from an operating agency to another agency, the operating agency shall inform the agency owning the property at least 90 days before the transfer. The agency owning the property shall negotiate with the agency gaining the facility for continued cross-servicing of the property at the facility. The agency gaining the facility shall continue the cross-servicing arrangements unless they are contrary to the best interest of the Government.

[42 FR 2317, Jan. 11, 1977]

§ 101-28.202-3 Cross-servicing rates.

Normally, charges for services rendered will be based upon the standard rates established by the agency for internal use. However, special rates may be negotiated to cover actual or estimated costs for large, bulk lots of material when the applicable rates appear inequitable, subject to the approval of the appropriate program official for the civilian agency, and the Assistant Secretary of Defense (I&L) when DOD is involved.

[42 FR 2317, Jan. 11, 1977]

§ 101-28.202-4 Reimbursement for services.

Reimbursement for services rendered shall be made promptly after receipt of billing. The frequency for billing and reimbursement shall be established by the activity providing warehousing and storage services; however, billing and reimbursement shall be made not less frequently than quarterly nor more frequently than monthly.

[42 FR 2317, Jan. 11, 1977]

§ 101-28.203 Definitions.

As used in this Subpart 101-28.2, the following term shall apply.

[42 FR 2317, Jan. 11, 1977]

§ 101-28.203-1 Government storage activity.

A Government activity or facility utilized for the receipt, storage, and issue of supplies, materials, and equipment, including storage of reserve or excess stocks or intransit storage. The activity may be either Government owned or leased, and it may be either Government operated or contract operated.

[42 FR 2317, Jan. 11, 1977]

§§ 101-28.203-2—101-28.203-3 [Reserved]

§ 101-28.203-4 Contact point.

The point within the headquarters of a military service or civilian agency to which requests should be forwarded. Coordination necessary with various organizational elements within a military service or civilian agency shall be accomplished by the contact point.

[42 FR 2317, Jan. 11, 1977]

Subpart 101-28.3—Self-Service Stores

Source: 42 FR 2317, Jan. 11, 1977, unless otherwise noted.

§ 101-28.300 Scope of subpart.

This subpart provides policy, procedures, and guidelines for the establishment of self-service stores and for Federal agency participation in the services provided.

§ 101-28.301 Applicability.

This subpart is applicable to all executive agencies assigned space in a building for which GSA has responsibility for its operation and maintenance in addition to space management.

§ 101-28.302 Self-service stores.

Self-service stores are established by the General Services Administration and provide expeditious and convenient distribution facilities in support of Federal agencies for common-use administrative, custodial, and maintenance supplies, forms, and other selected items. Modern self-service merchandising techniques, with simplified billing methods, are utilized for the benefit of using activities. Limited mail-order and buying service and advice on methods and sources of items not stocked in the self-service stores are provided at these outlets upon request.

§ 101-28.303 Use of self-service stores.

Self-service stores are immediate sources of supply for executive agencies which are occupants of buildings in which the stores are located and are available for use by other Federal activities in the vicinity. Supplies purchased in these stores comply with requirements for use of GSA sources set forth in § 101-26.301. Articles stocked in self-service stores are for official use only and may be purchased only by holders of valid shopping plates. Agencies and activities to which GSA has issued shopping plates shall be responsible for the acquisition, control, and use of the items purchased to ensure that these purchases are used in the best interest of the Government.

§ 101-28.304 Establishment of self-service stores.

GSA, in conjunction with other appropriate agencies, will conduct studies to determine the feasibility of activating a self-service store and the extent of services required. The studies shall be conducted in accordance with the provisions of § 101-28.305.

§ 101-28.305 Feasibility studies.

§ 101-28.305-1 Initiation and scheduling.

GSA may initiate feasibility studies to determine whether self-service stores should be established in existing or proposed new Federal buildings or leased space or in a complex of Federal and/or leased buildings. Studies will be based on the size and type of agencies and the number of Federal personnel occupying or scheduled to occupy the space, and the total Federal population in the immediate vicinity, under the provisions of § 101-5.104. All studies will be scheduled by the appropriate GSA Regional Administrator and coordinated with potential user activities in the area of the proposed location.

§ 101-28.305-2 Findings and determinations.

(a) The study data, including any objections or limitations submitted or expressed by the agencies involved in the study, will be accumulated, analyzed, and summarized by the GSA regional office and submitted with findings and recommendations to the Commissioner, Federal Supply Service, for transmittal to the Administrator of General Services. In accordance with the provisions § 101-5.104-7, the Administrator will determine whether the establishment of the self-service store meets the criteria for increased economy, efficiency, and service of the agencies to be served.

(b) The appropriate Regional Administrator will inform the affected agencies of the Administrator's decision. If approval is announced, additional information will be furnished, as appropriate, including:

(1) Location of the proposed self-service store and approximate date of activation;

(2) Categories of items to be stocked or otherwise made available;

(3) Services which will be available, including technical supply assistance and procurement service; and

(4) Instructions for obtaining supply service.

§ 101-28.306 Consolidation of functions.

After it has been determined to establish a self-service store, the appropriate GSA regional office will:

(a) Arrange for transfer to GSA, without reimbursement, all available equipment which will become excess by reason of the establishment of the self-service store; dispose of any equipment transferred which is not needed; and provide, when necessary, for transfer of inventory.

(b) Not assign space in a building for the operation of a supply outlet which would duplicate the functions and services performed in connection with items handled through a self-service store.

(c) Activate the self-service store in sufficient time to preclude interruption of supply services to agencies.

§ 101-28.307 Responsibility for operation.

The appropriate GSA region will be responsible for the operation of the self-service store.

§ 101-28.308 Shopping plates.

§ 101-28.308-1 General.

Valid shopping plates are required for customers to enter and perform all customer transactions in GSA self-service stores.

[45 FR 17008, Mar. 17, 1980]

§ 101-28.308-2 Description and types.

(a) Shopping plates are color coded 2- by 3-inch plastic laminated cards. The GSA logo is printed at the top of the front side of the shopping plate and customer data are embossed on the lower front side of the shopping plate. The back side of the shopping plate contains a color bar code for use in the automated billing of purchases to a customer account.

(b) There are four types of self-service store shopping plates (retail services shopping plates) authorized for use in GSA self-service stores. The types of shopping plates and the activities or persons that may be authorized to use them are as follows:

(1) GSA Form 1948, Retail Services Shopping Plate. (Color: Green and white.) This form is for use by civilian and military Federal agencies and members of the Federal judiciary.

(2) GSA Form 1948-A, Retail Services Shopping Plate. (Color: Red and white.) This form is for use by authorized cost-reimbursable contractors.

(3) GSA Form 1948-B, Retail Services Shopping Plate. (Color: Blue and white.) This form is for use by Members of Congress.

(4) GSA Form 1948-C, Retail Services Shopping Plate. (Color: Yellow and white.) This form is for use by activities of the Public Buildings Service, GSA, and other agencies, as appropriate.

[45 FR 17008, Mar. 17, 1980]

§ 101-28.308-3 Limitations on use.

(a) The use of GSA Forms 1948, 1948-A, and 1948-B is limited to purchases of items from GSA self-service stores (administrative) that stock mostly administrative supplies.

(b) The use of GSA Form 1948-C is limited to purchases of items from GSA self-service stores (industrial) that stock mostly industrial supplies.

(c) Agencies shall establish internal controls to ensure that the use of shopping plates by the agency or other lawfully authorizied activity is limited to the purchase of items for official Government business. The controls shall include written instructions for the use of shopping plates, that contain a statement prohibiting their use in acquiring items for other than Government business.

(d) Members of Congress, except for the Delegate of the District of Columbia, should limit the use of their shopping plates to self-service stores located outside of the District of Columbia. Office supplies needed by Members of Congress for use in the District of Columbia should be obtained from the Senate and House of Representatives supply rooms. The Delegate of the District of Columbia may use a shopping plate to obtain office supplies from self-service stores located in the District of Columbia.

[45 FR 17008, Mar. 17, 1980]

§ 101-28.308-4 Obtaining a shopping plate.

To obtain a shopping plate, an eligible activity shall obtain a GSA Form 1947, Application for Self-Service Store Shopping Plate, from a GSA self-service store, GSA regional office, or other location as determined locally by GSA, and submit the completed form to the nearest self-service store or supporting GSA regional office. All shopping plate applications shall identify the delivery and billing locations (BOAC) with the activity address code (AAC) assigned to the activity applying for the shopping plate. A civilian activity that has not been assigned an activity address code should request one in accordance with the instructions in chapter 2 of the FEDSTRIP Operating Guide (FPMR 101-26.2). Military applicants, including nonappropriated fund activities, that have not been assigned a Department of Defense activity address code (DODAAC) should request one from their military service focal point.

[45 FR 17008, Mar. 17, 1980]

§ 101-28.308-5 Expiration or cancellation.

(a) Shopping plates issued to Federal agencies or members of the Federal judiciary are valid for an indefinite period of time unless canceled by the Commissioner, Federal Supply Service (FSS), GSA, or a GSA Regional Administrator.

(b) Shopping plates issued to authorized contractors or Members of Congress will contain an expiration date reflecting the termination of the contract or the term of office. Expired shopping plates are invalid and shall be returned to the issuing GSA region for disposition and destruction. New shopping plates will be issued to reinstated contractors or reelected Members of Congress after submission of an application.

(c) The Commissioner, Federal Supply Service (FSS), GSA, may periodically direct a nationwide purge of shopping plates to cancel those that are duplicates, not needed, or have been lost or stolen. Shopping plates may also be canceled on a selective basis by a GSA region at the direction of the GSA Regional Administrator in coordination with the Office of Self-Service Stores, FSS, and the supporting GSA accounting center. Agencies shall keep GSA informed of any changes in organization or accounting structure that might have an impact on the status of their shopping plates. Under the procedures for conducting a purge, purged shopping plates become invalid as of a specific date established by the Commissioner, FSS, or a GSA Regional Administrator, and new shopping plates are issued upon receipt of reapplications.

[45 FR 17009, Mar. 17, 1980]

§ 101-28.308-6 Safeguards.

Agencies shall establish internal controls to ensure that shopping plates are properly safeguarded. The controls shall include a written delegation of authority to an official or officials for custody of shopping plates and written instructions for safekeeping shopping plates requiring that they be stored in a secure place, such as in a locked filing cabinet.

[45 FR 17009, Mar. 17, 1980]

§ 101-28.308-7 Reporting loss or theft.

When a shopping plate is lost or stolen, the agency responsible for the shopping plate shall immediately provide a verbal report of the loss or theft, including the account number of the shopping plate, to the self-service store activity in the supporting GSA region. The verbal report shall be followed by a written report confirming the loss or theft. Account numbers of reported lost or stolen shopping plates will be entered into the self-service store automated billing system for detection of any illegal use of these shopping plates.

[45 FR 17009, Mar. 17, 1980]

PART 101-29—FEDERAL SPECIFICATIONS AND STANDARDS

Sec.

101-29.000 Scope of part.

Subpart 101-29.1—General

101-29.101 Federal standardization documents.
101-29.102 Procedures for development of Federal standardization documents.
101-29.103 Availability of Federal standardization documents.

Subpart 101-29.2—Specifications

101-29.201 General definition of a specification.
101-29.201-1 Federal specifications.
101-29.201-2 Interim Federal specifications.
101-29.201-3 Military specifications.
101-29.201-4 Departmental specifications.
101-29.202 Federal Qualified Products Lists.
101-29.203 Mandatory use of Federal specifications.
101-29.204 Exceptions to mandatory use of Federal specifications.
101-29.205 Deviations from Federal specifications.
101-29.205-1 Agency responsibility relative to deviations from Federal specifications.
101-29.205-2 Limitations on continued deviations.
101-29.206 Optional use of Interim Federal specifications.

Sec.

101-29.207 Use of Federal specifications and interim Federal specifications in Federal construction contracts.

101-29.208 Military and departmental specifications.

Subpart 101-29.3—Standards

101-29.301 General definition of standards.

101-29.301-1 Federal Standards.

101-29.301-2 Interim Federal standards.

101-29.301-3 Military standards.

101-29.301-4 Departmental standards.

101-29.302 Mandatory use of Federal Standards.

101-29.303 Exceptions to mandatory use of Federal telecommunication standards.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

SOURCE: 29 FR 16002, Dec. 1, 1964, unless otherwise noted.

§ 101-29.000 Scope of part.

This part sets forth the policy and procedures for the development and use of Federal specifications and associated Qualified Products Lists and Federal standards.

[42 FR 13828, Mar. 14, 1977]

Subpart 101-29.1—General

§ 101-29.101 Federal standardization documents.

Federal specifications, Federal Qualified Products Lists, and Federal standards are referred to collectively as Federal standardization documents. They are developed by GSA or other Federal agencies under the Assigned Agency Plan described in the "Federal Standardization Handbook" issued by the Commissioner, Federal Supply Service, GSA. Federal standardization documents are coordinated with other Federal agencies having technical, statutory, or regulatory interest in the commodity or other subject matter covered. Before these are issued, Federal specifications are reviewed by technical societies and organizations representing industrial producers and consumers.

[42 FR 13828, Mar. 14, 1977]

§ 101-29.102 Procedures for development of Federal standardization documents.

The Commissioner, Federal Supply Service, will issue and maintain on a current basis a "Federal Standardization Handbook." The Federal Standardization Handbook sets forth operating procedures and applicable definitions used in the development of Federal standardization documents under the Assigned Agency Plan described therein. Federal agencies shall adhere to the provisions of the handbook in the development and coordination of Federal standardization documents.

[42 FR 13828, Mar. 14, 1977]

§ 101-29.103 Availability of Federal standardization documents.

The Commissioner, Federal Supply Service will promulgate and maintain on a current basis the "Index of Federal Specifications and Standards." The Index lists Federal standardization documents which have been printed and distributed, including those which are mandatory for use, and identifies the sources from which these documents may be obtained. The Index also provides information on other Government standardization documents and recognized industry standards adopted by reference in Federal standardization documents. Supplements to the Index indicate the dates on which the use of new Federal Specifications and Standards become mandatory. The Department of Defense also lists Federal Specifications and Standards in the "Department of Defense Index of Specifications and Standards."

Subpart 101-29.2—Specifications

§ 101-29.201 General definition of a specification.

A "specification" is a document intended for use in procurement. It describes the essential and technical requirements for items, materials, or services, including the procedures for determining that the requirements have been met. Specifications for items and material also contain preservation, packaging, packing, and marking requirements.

§ 101-29.201-1 Federal specifications.

"Federal specification" means a Government specification which covers those materials, products, or services used by two or more Federal agencies (at least one of which is a civil agency). Federal specifications are promulgated by GSA and are mandatory for use by all Federal agencies.

[42 FR 13828, Mar. 14, 1977]

§ 101-29.201-2 Interim Federal specifications.

An "interim Federal specification" is a potential Federal specification issued in interim form for optional use by all Federal agencies. Interim amendments to Federal specifications and amendments to interim Federal specifications are included in this definition.

[42 FR 13828, Mar. 14, 1977]

§ 101-29.201-3 Military specifications.

"Military specification" means a specification issued by the Department of Defense that is used solely or predominantly by and is mandatory for military activities. (This definition includes fully coordinated and limited coordination.)

[42 FR 13828, Mar. 14, 1977]

§ 101-29.201-4 Departmental specifications.

"Departmental specification" means a specification prepared by and of interest primarily to a particular Federal civil agency, but which may be of use in procurement by other Federal agencies.

§ 101-29.202 Federal Qualified Products Lists.

"Federal Qualified Products Lists" (QPL's) means lists of products tested and approved under qualification tests set forth in certain Federal specifications. The qualification test requirement is included in the specification only when the Government requires this assurance of requisite quality of the product before the award of the contract. For procurement purposes, a qualified product is one which has been tested and approved for inclusion in the Federal QPL, whether or not the product has actually been so listed, before the bid opening date or award of a negotiated contract.

[42 FR 13828, Mar. 14, 1977]

§ 101-29.203 Mandatory use of Federal Specifications.

Federal Specifications shall be used by all Federal agencies, in the procurement of supplies and services covered by such specifications, except as provided in §§ 101-29.204 and 101-29.205.

§ 101-29.204 Exceptions to mandatory use of Federal specifications.

(a) Federal specifications need not be used under any of the following circumstances:

(1) The purchase is required under a public exigency and a delay in obtaining agency requirements would be involved in using the applicable specification.

(2) The total amount of the purchase does not exceed $10,000. Multiple small purchases of the same item shall not be made for the purpose of avoiding the intent of this exception. Further, this exception in no way affects the requirements for the procurement of items available from GSA supply distribution facilities, Federal Supply Schedule contracts, GSA procurement programs, and certain procurement sources other than GSA, that have been assigned supply responsibility for Federal agencies as provided in Subparts 101-26.3, 101-26.4, 101-26.5, and 101-26.6.

(3) The items are purchased in foreign markets for use of overseas activities of agencies.

(4) An interim Federal specification is used by an agency in lieu of the Federal specification.

(5) Where otherwise authorized by law.

(b) If the purchase involves the following, Federal specifications need not be used except to the extent that they are applicable, in whole or in part:

(1) Items required in construction of facilities for new processes or new installations of equipment;

(2) Items required for experiment, test, or research and development; or

(3) Spare parts, components, or materials required for operation, repair, or maintenance of existing equipment.

[31 FR 4684, Mar. 19, 1966, as amended at 42 FR 13828, Mar. 14, 1977]

§ 101-29.205 Deviations from Federal specifications.

When the essential needs of an agency are not adequately covered by an existing Federal specification and the proposed purchase does not come within the exceptions described in § 101-29.204, the agency may authorize deviations from the Federal specification. However, requirements of existing Federal specifications shall be used to the maximum extent practicable.

[42 FR 13828, Mar. 14, 1977]

§ 101-29.205-1 Agency responsibility relative to deviations from Federal specifications.

Each agency taking deviations shall establish procedures whereby a designated official having substantial procurement responsibility shall be responsible for ensuring that:

(a) Federal specifications are used, and provisions for exceptions and deviations are complied with.

(b) Justification for exceptions and deviations are subject to competent review before authorization, and that such justifications can be fully substantiated if post audit is required.

(c) Major or repeated deviations are not taken except as prescribed in this § 101-29.205.

(d) Notification of deviation or recommendation for change in the specification is sent promptly in duplicate to the General Services Administration (FM), Washington, D.C. 20406. A statement of the deviations with a justification and, where applicable, recommendation for revision or amendment of the specification shall be included. A notification is required for major deviations such as those that will result in the introduction of a new item of supply as evidenced by the development of a new item identification, or when a deviation is taken repeatedly.

[29 FR 16002, Dec. 1, 1964, as amended at 42 FR 13829, Mar. 14, 1977]

§ 101-29.205-2 Limitations on continued deviations.

Deviations taken and reported by the agency in accordance with § 101-29.205-1 may not be continued except under the following conditions:

(a) When an agency submits notification of major or repeated deviations that have been taken but makes no recommendation for change in the specification, GSA will notify the agency as to whether such deviations may be continued in subsequent procurement. In cases where continued deviations are not approved and where procurement by the agency has progressed to a point where it would be impracticable to amend or cancel the action, such action may be completed, but the deviation shall not be continued by the agency in subsequent procurement.

(b) When an agency has recommended changing the specification consistent with the deviations it has taken and reported, those deviations may be continued until such time as the recommended change is incorporated in the specification. When coordination with Federal agencies and industry does not result in acceptance of the change, such deviations shall not be continued by the agency in subsequent procurement.

§ 101-29.206 Optional use of Interim Federal Specifications.

Interim Federal Specifications are for optional use. All agencies are urged to make maximum use of them and to submit suggested changes to the assigned agency for consideration in further development of the specifications for promulgation as Federal Specifications. Interim revisions or amendments to Federal Specifications are for optional use as valid exceptions to the Federal Specifications so revised or amended and must therefore be specifically identified by symbol and date in the invitation for bids or request for proposal.

§ 101-29.207 Use of Federal specifications and interim Federal specifications in Federal construction contracts.

When material, equipment, or services covered by an available Federal specification or interim Federal specification are specified in connection with Federal construction, the Federal specification or interim Federal specification shall be made a part of the specification for the construction contract, subject to the provisions in §§ 101-29.204, 101-29.205, and 101-29.206.

[42 FR 13829, Mar. 14, 1977]

§ 101-29.208 Military and departmental specifications.

When a Federal specification is not available, existing interim Federal, military, and departmental specifications should be used by all agencies consistent with each agency's procedures for establishing priority for use of such specifications.

[42 FR 13829, Mar. 14, 1977]

Subpart 101-29.3—Standards

§ 101-29.301 General definition of standards.

"Standards" means documents that establish engineering and technical limitations and applications of items, materials, processes, methods, designs, and engineering practices. They include any related criteria deemed essential to achieve the highest practical degree of uniformity in materials or products, or interchangeability of parts used in those products. Standards may be used in specifications, invitations for bids, proposals, and contracts. The identification of the categories and intended use of such standards are as set forth in this § 101-29.301.

§ 101-29.301-1 Federal Standards.

"Federal Standard" means a standard promulgated by GSA which is mandatory for use by all Federal agencies, including the Department of Defense.

§ 101-29.301-2 Interim Federal standards.

"Interim Federal standard" means a standard issued in interim form for optional use by all Federal agencies and intended for final processing as a new or revised Federal standard. GSA has discontinued the issuance of interim Federal standards in all but the most unusual circumstances. In most instances a military or departmental standard will serve as the coordination draft for a Federal standard, and the interim issuance will not be needed.

[42 FR 13829, Mar. 14, 1977]

§ 101-29.301-3 Military standards.

"Military standard" means a standard issued by the Department of Defense used solely or predominantly by and mandatory on military activities. (This definition includes both fully coordinated and limited coordination military standards.)

§ 101-29.301-4 Departmental standards.

"Departmental standard" means a standard prepared by and of interest primarily to a particular Federal civil agency, but which may be used in procurement by other agencies.

§ 101-29.302 Mandatory use of Federal standards.

Federal standards shall be used by all Federal agencies. The exceptions to § 101-29.204 relating to the mandatory use of Federal specifications are applicable to Federal standards other than telecommunication standards. Exceptions applicable to Federal telecommunication standards are provided in § 101-29.303. A Federal agency may be granted an exception to the use of Federal standards (other than Federal telecommunication standards) by GSA only upon submission of adequate justification to the General Services Administration (F), Washington, DC 20406.

[44 FR 58910, Oct. 12, 1979]

§ 101-29.303 Exceptions to mandatory use of Federal telecommunication standards.

(a) Exceptions to the mandatory use of Federal telecommunication standards required by Subpart 101-36.13 may be granted by GSA only upon submission of adequate justification to the General Services Administration (C), Washington, DC 20405. Circumstances under which exceptions may be granted include, but are not limited to, the following:

(1) The items to be purchased are replacements or augmentation components of an existing system or equipment, the operational integrity or utility of which would be decreased by introduction of components meeting Federal telecommunication standards; or

(2) The purchase is required under a public exigency, and delay in obtaining agency requirements would be involved in using the applicable standards.

(b) When purchases are made under any of the following conditions, agencies may procure nonstandard equipment without prior approval of, but with notification to, the General Services Administration:

(1) The items are to be purchased in foreign markets for use by overseas activities of agencies;

(2) The items to be purchased are required for experimental or test and evaluation purposes; or

(3) Where otherwise authorized by law or treaty.

[44 FR 58910, Oct. 12, 1979]

PART 101-30—FEDERAL CATALOG SYSTEM

Sec.

101-30.000 Scope of part.
101-30.001 Applicability.

Subpart 101-30.1—General

101-30.100 Scope of subpart.
101-30.101 Definitions.
101-30.101-1 Civil agency item.
101-30.101-2 Item of supply.
101-30.101-3 National stock number.
101-30.101-4 Federal item identification.
101-30.101-5 Cataloging.
101-30.101-6 Cataloging activity.
101-30.101-7 Federal Catalog System.
101-30.101-8 Conversion.
101-30.101-9 Item entry control.
101-30.101-10 GSA section of the Federal Supply Catalog.
101-30.101-11 Recorded data.
101-30.101-12 Item identification data.
101-30.101-13 Management data.
101-30.101-14 Maintenance action.
101-30.101-15 Data preparation.
101-30.101-16 Data transmission.
101-30.101-17 Supply support.
101-30.101-18 Supply support request.
101-30.102 Objectives.
101-30.103 Responsibilities.

Sec.

101-30.103-1 General.
101-30.103-2 Agency responsibilities.

Subpart 101-30.2—Cataloging Handbooks and Manuals

101-30.201 General.
101-30.202 Policies.

Subpart 101-30.3—Cataloging Items of Supply

101-30.300 Scope of subpart.
101-30.301 Types of items to be cataloged.
101-30.302 Types of items excluded from cataloging.
101-30.303 Responsibility.
101-30.304 Application of item entry control.
101-30.305 Exemptions from the system.

Subpart 101-30.4—Use of the Federal Catalog System

101-30.400 Scope of subpart.
101-30.401 Data available from the Federal Catalog System.
101-30.401-1 Publications providing Federal catalog data.
101-30.401-2 Automated catalog data output.
101-30.402 Conversion.
101-30.403 Utilization.
101-30.403-1 Reports of excess and surplus personal property.
101-30.403-2 Management codes.
101-30.404 Supply support.
101-30.404-1 Consolidation of supply support requests.

Subpart 101-30.5—Maintenance of the Federal Catalog System

101-30.500 Scope of subpart.
101-30.501 Applicability.
101-30.502 [Reserved]
101-30.503 Maintenance actions required.
101-30.504 Cataloging data from Defense Logistics Services Center (DLSC).
101-30.505 Assistance by Government suppliers.

Subpart 101-30.6—GSA Section of the Federal Supply Catalog

101-30.600 Scope of subpart.
101-30.601 Objective.
101-30.602 Authority for issuance.
101-30.603 GSA Supply Catalog.
101-30.603-1 [Reserved]
101-30.603-2 GSA Supply Catalog.
101-30.603-3—101-30.603-4 [Reserved]
101-30.603-5 Change bulletins.
101-30.603-6 Special notices.
101-30.604 Availability.

Subpart 101-30.7—Item Reduction Program

Sec.
101-30.700 Scope of subpart
101-30.701 Definitions.
101-30.701-1 Item reduction study.
101-30.701-2 Item standardization code.
101-30.701-3 Preparing activity.
101-30.701-4 Standardization relationship.
101-30.702 Determining item reduction potential.
101-30.703 Program objectives.
101-30.704 Agency responsibilities.
101-30.704-1 General Services Administration.
101-30.704-2 Other agencies.
101-30.705 GSA assistance.

Subparts 101-30.8—101-30.48 [Reserved]

Subpart 101-30.49—Illustrations of Forms

101-30.4900 Scope of subpart.
101-30.4901 Standard forms.
101-30.4901-1303 Standard Form 1303, Request for Federal Cataloging/Supply Support Action.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

SOURCE: 29 FR 1604, Dec. 1, 1964, unless otherwise noted.

§ 101-30.000 Scope of part.

This part provides for a Federal Catalog System by which items pursuant to § 101-30.301 are uniformly identified to facilitate management of all logistical operations from determination of requirements through disposal. This system provides a standard reference language or terminology to be used by all persons engaged in the process of supply, a prerequisite for integrated item management under the national supply system concept.

[41 FR 11308, Mar. 18, 1976]

§ 101-30.001 Applicability.

The provisions of this part are applicable to all Federal agencies. However, they shall apply to the Department of Defense only when so specified within or by the subparts of this part.

[36 FR 20292, Oct. 20, 1971]

Subpart 101-30.1—General

SOURCE: 41 FR 11308, Mar. 18, 1976, unless otherwise noted.

§ 101-30.100 Scope of subpart.

This subpart defines the objectives of the Federal Catalog System, and assigns responsibilities for its operation. The basic principles and procedures of the Federal Catalog System are contained in published cataloging handbooks and manuals described in Subpart 101-30.2.

[29 FR 16004, Dec. 1, 1964]

§ 101-30.101 Definitions.

As used in this Part 101-30, the following terms shall have the meanings set forth in this § 101-30.101.

[29 FR 16004, Dec. 1, 1964]

§ 101-30.101-1 Civil agency item.

"Civil agency item" means an item of personal property entering the supply systems of civil agencies, including direct delivery requirements as well as materials stocked for subsequent issue.

§ 101-30.101-2 Item of supply.

"Item of supply" means a single item of production or two or more items of production that are functionally interchangeable in required applications. An item of supply may consist of any number of pieces or objects which are treated in the supply operations of a Government activity as being identical. The concept of each item of supply is expressed in, and fixed by, an item identification.

§ 101-30.101-3 National stock number.

The "national stock number" (NSN) is the identifying number assigned to each item of supply. The NSN consists of the 4-digit Federal Supply Classification (FSC) code and the 9-digit national item identification number (NIIN). The written, printed, or typed NSN configuration is 1234-00-567-8901. The following terms are elements of the 13-digit national stock number:

(a) "Federal Supply Classification" (FSC) is a 4-digit number which groups similar items into classes.

(b) "National Codification Bureau" (NCB) code is a 2-digit number designating the central cataloging office of the NATO or other friendly country which assigned the national item identification number (NIIN) and is used as the first two digits of the NIIN.

(c) "National item identification number" (NIIN) is a 9-digit number composed of the NCB code number (2-digits) followed by 7 other nonsignificant digits.

§ 101-30.101-4 Federal item identification.

"Federal item identification" means the approved item identification for the item of supply, plus the national stock number assigned to that item identification. It consists of four basic elements: the name of the item, the identifying characteristics, the Federal Supply Classification code, and the national item identification number.

§ 101-30.101-5 Cataloging.

"Cataloging" means the process of uniformly identifying, describing, classifying, numbering, and publishing in the Federal Catalog System all items of personal property (items of supply) repetitively procured, stored, issued, and/or used by Federal agencies.

§ 101-30.101-6 Cataloging activity.

"Cataloging activity" means the activity of a Federal agency having responsibility for performing cataloging operations in identifying and describing items of supply in the Federal Catalog System.

§ 101-30.101-7 Federal Catalog System.

"Federal Catalog System" means the single supply catalog system designed to uniformly identify, classify, name, describe, and number the items of personal property used by the Federal Government by providing only one classification, one name, one description, and one item identification number for each item of supply. It provides a standard reference language or terminology to be used by all persons engaged in the process of supply.

§ 101-30.101-8 Conversion.

"Conversion" means the changeover from using existing supply classifications, stock numbers, names, and identification data to using those of the Federal Catalog System in all supply operations, from determination of requirements to final disposal.

§ 101-30.101-9 Item entry control.

"Item entry control" means the functional responsibility of GSA/DOD cataloging to minimize the number of items in the supply system by: (a) Establishing controls that prevent unessential new items from entering the supply system; (b) promoting the development of standards and use of standard items; and (c) eliminating items having nonstandard characteristics.

[36 FR 20292, Oct. 20, 1971]

§ 101-30.101-10 GSA section of the Federal Supply Catalog.

"GSA section of the Federal Supply Catalog" means a series of supply catalogs issued by GSA as an integral part of the Federal Supply Catalog. These catalogs indicate the source for obtaining supplies and services and contain ordering instructions and related supply management data.

§ 101-30.101-11 Recorded data.

"Recorded data" means the data which are associated with a national stock number and are recorded on microfilm or magnetic computer tape at the Defense Logistics Center (DLSC), Battle Creek, MI 49016.

§ 101-30.101-12 Item identification data.

"Item identification data" means recorded data which are used to differentiate an item from all other items. Item identification data are composed of data that describe the essential physical characteristics of the item and reference data that relate the item to other identifying media (such as manufacturers' part numbers, identified blueprints, suppliers' catalogs, or the like).

§ 101-30.101-13 Management data.

"Management data" means recorded data that relate an item to the individual agency's supply system for purposes of supply management as standardization, source of supply, or inventory control. Management data do not affect the identification of an item.

§ 101-30.101-14 Maintenance action.

"Maintenance action" means any action taken subsequent to conversion to the Federal Catalog System which changes the previously reported identification or management data as to a cataloged item, or which introduces a new item into the Federal Catalog System.

§ 101-30.101-15 Data preparation.

"Data preparation" means the conversion of item identification and management data to the appropriate Automated Data Processing (ADP) format.

§ 101-30.101-16 Data transmission.

"Data transmission" means the operation of telecommunication equipment for the receipt and transmission of item identification and management data.

§ 101-30.101-17 Supply support.

"Supply support" means the functions performed by the supply manager to provide requesting (using) activities with a Government source and method of supply for an item; e.g., GSA stock program, Federal supply schedule program, GSA's buy-on-demand program, or GSA's authorizing an agency to purchase locally.

[43 FR 42257, Sept. 20, 1978]

§ 101-30.101-18 Supply support request.

"Supply support request" means a request from an activity to a supply manager; e.g., a request to GSA to provide that activity with supply support for an item.

[43 FR 42257, Sept. 20, 1978]

§ 101-30.102 Objectives.

The objectives of the Federal cataloging program are:

(a) To provide for the maintenance of a uniform Federal supply catalog system and the conversion to and exclusive use of this system by all Federal agencies.

(b) To name, describe, identify, classify, and number each item of personal property to be included in the Federal Catalog System so that the same items will have a single Federal item identification within and among the organizational elements of all Federal agencies.

(c) To collect, maintain, and publish such Federal catalog data and related supply management data as may be determined necessary or desirable to reflect such benefits to supply management as:

(1) Assistance in standardization of supplies and equipment;

(2) Disclosure of interchangeability and substitutability of items;

(3) Reduction in inventories of stock and increased rates of turnover;

(4) Increase in vendor competition and broader sources of supply;

(5) Provision of data for determining the most effective and economical method of item management on a Federal agency systemwide basis;

(6) Enhance item entry control;

(7) Facilitation of better interagency and intra-agency use of supplies, equipment, and excess stocks, and more exact identification of surplus personal property; and

(8) Assistance in providing precise statistics for budget and financial accounting purposes.

[29 FR 16004, Dec. 1, 1964, as amended at 36 FR 20292, Oct. 20, 1971; 41 FR 11308, Mar. 18, 1976]

§ 101-30.103 Responsibilities.

§ 101-30.103-1 General.

(a) The provisions of section 206 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 487) authorize the Administrator of General Services to establish and maintain a uniform Federal Catalog System to identify and classify personal property under the control of Federal agencies. Under this law each Federal agency is required to utilize the uniform Federal Catalog System, except as the Administrator of General Services shall otherwise provide, taking into consideration efficiency, economy, and other interests of the Government.

(b) The Defense Cataloging and Standardization Act (Chapter 145, Title 10, U.S. Code) authorizes the Secretary of Defense to develop a single supply catalog system for the Department of Defense.

(c) Both laws require that the Administrator of General Services and the Secretary of Defense shall coordinate the cataloging activities of GSA and the Department of Defense to avoid unnecessary duplication.

[29 FR 16004, Dec. 1, 1964, as amended at 41 FR 11309, Mar. 18, 1976]

§ 101-30.103-2 Agency responsibilities.

(a) Each civil agency shall:

(1) Participate in the preparation and maintenance of the civil agency portion of the Federal Catalog System and in the conversion to and utilization of this system, and

(2) Comply with the policies, principles, rules, and procedures of the Federal Catalog System as prescribed in this Part 101-30.

(b) Adherence by the Department of Defense to the single supply catalog system developed for the military departments under Chapter 145, Title 10, U.S. Code, shall be deemed to constitute full coordination of cataloging activities with GSA.

[29 FR 16004, Dec. 1, 1964]

Subpart 101-30.2—Cataloging Handbooks and Manuals

§ 101-30.201 General.

(a) This subpart describes the cataloging handbooks and manuals prepared by the Defense Logistics Agency, Department of Defense, in coordination with GSA.

(b) The following basic cataloging handbooks and manuals are available for purchase from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. The requirements of these publications shall be followed by all cataloging activities participating in the Federal Catalog System.

(1) *Federal Catalog System Policy Manual (DOD 4130.2-M).* This manual prescribes the operating policies and instructions covering the maintenance of a uniform catalog system.

(2) *Defense Integrated Data System (DIDS) Procedures Manual (DOD 4100.39-M).* This manual prescribes the procedures covering the maintenance of a uniform catalog system.

(3) *Federal Supply Classification (Cataloging Handbook H2).* This handbook includes the listings and indexes necessary for utilizing the commodity classification (grouping related items of supply) as prescribed by the Federal Catalog System Policy Manual.

(4) *Federal Supply Code for Manufacturers (Cataloging Handbook H4).* This handbook includes a comprehensive listing of the names and addresses of manufacturers who have supplied or are currently supplying items of supply used by the Federal Government and the applicable 5-digit code assigned to each.

(5) *Federal Item Name Directory (FIND) for Supply Cataloging (Cataloging Handbook H6).* This handbook includes names of supply items with definitions, Item Name Codes, and other related data required to prepare item identifications for inclusion in the Federal Catalog System.

[29 FR 16004, Dec. 1, 1964, as amended at 39 FR 37060, Oct. 17, 1974; 41 FR 11309, Mar. 18, 1976; 42 FR 36254, July 14, 1977]

§ 101-30.202 Policies.

The cataloging publications indicated in § 101-30.201 provide a ready reference to the following operating policies and rules covering the uniform catalog system:

(a) *Identification.* (1) Each civil agency shall ensure that each of its items authorized for cataloging is included and maintained in the Federal Catalog System as prescribed in the Federal Catalog System Policy Manual.

(2) Each item of supply shall have applicable to it one, and only one, Federal item identification; each Federal item identification shall be applicable to one, and only one, item of supply.

(b) *Federal Supply Classification (FSC).* (1) The Federal Supply Classification shall be used in supply management within the civil agencies.

(2) Each item included in the Federal Catalog System shall be classified under the Federal Supply Classification and shall be assigned only one 4-digit class in accordance with the rules prescribed in the Federal Catalog System Policy Manual.

(c) *Numbering.* (1) Each item of supply identified in the Federal Catalog System shall be assigned a national stock number which shall consist of the applicable 4-digit FSC class code and a 9-digit national item identification number.

(2) The national stock number shall be the only stock number used in supply operations for items within the scope of the Federal Catalog System. The integrity of the national stock number shall always be maintained whenever it is employed in any operation or document. Supply management codes, or other management symbols, may be associated with, but never included as a part of the national stock number. These management codes or symbols shall always be separated from the national stock number in such a manner that the national stock number is clearly distinguishable.

[29 FR 16004, Dec. 1, 1964, as amended at 39 FR 37060, Oct. 17, 1974; 41 FR 11309, Mar. 18, 1976]

Subpart 101-30.3—Cataloging Items of Supply

§ 101-30.300 Scope of subpart.

This subpart prescribes the types of items to be cataloged, the types of items to be excluded from the Federal Catalog System, the responsibilities for catalog data preparation and transmission to the Defense Logistics Services Center (DLSC), and the application of item entry control procedures upon request for cataloging action.

[42 FR 36255, July 14, 1977]

§ 101-30.301 Types of items to be cataloged.

Items of personal property in the civil agency systems that are subject to repetitive procurement, storage, distribution and/or issue, and all locally purchased, centrally managed items will be named, described, identified, classified, and numbered (cataloged) in the Federal Catalog System. Other locally purchased items may be cataloged based upon civil agency requirements. The term "repetitive" will be construed to mean continual or recurring and applies to those items for which a need is deemed to exist within the appropriate civil agency.

[41 FR 11309, Mar. 18, 1976]

§ 101-30.302 Types of items excluded from cataloging.

Items of personal property in the following categories are to be excluded from the Federal Catalog System except when an agency determines that Federal item identification data will be of value in its supply management operations:

(a) Capital equipment items which are nonexpendable and are especially designed for a specific purpose, such as elevators or central air-conditioning system installations.

(b) Items of personal property on which security classification is imposed.

(c) Items procured on a one-time or infrequent basis for use in research and development, experimentation, construction, or testing and not subject to centralized item inventory management, reporting, or stock control.

(d) Items procured in foreign markets for use in overseas activities of Federal agencies.

(e) Printed forms.

[29 FR 16004, Dec. 1, 1964, as amended at 41 FR 11309, Mar. 18, 1976; 42 FR 36255, July 14, 1977]

§ 101-30.303 Responsibility.

Each agency shall ensure that each of its items to be cataloged is included and maintained in the Federal Catalog System.

(a) Agencies with cataloging and data preparation and transmission capabilities, when authorized by GSA, shall submit data direct to the Defense Logistics Services Center (DLSC) in conformance with procedures set forth in the Defense Integrated Data System (DIDS) Procedures Manual (DOD 4100.39-M).

(b) Agencies not having the capabilities cited in paragraph (a) of this section shall prepare Standard Form 1303, Request for Federal Cataloging/Supply Support Action (illustrated at § 101-30.4901-1303), or an EAM card of formatted actions for submission to GSA (or to the appropriate Defense

Logistics Agency (DLA) supply center for maintenance actions as described in § 101-30.503). GSA of DLA will perform al cataloging functions and/or prepare and transmit data to DLSC. Instructions on the preparation and submission of Standard Form 1303 for requesting Federal cataloging and/or supply support actions and EAM cards for volume add/delete user requests are contained in the GSA Handbook, Federal Cataloging System-Logistics Data (FPMR 101-30.3), issued by the Commissioner, Federal Supply Service.

(c) GSA will confer with civil agencies periodically to review and devise methods of submission according to their needs and capabilities.

[42 FR 36255, July 14, 1977, as amended at 43 FR 18673, May 2, 1978]

§ 101-30.304 Application of item entry control.

In addition to the reviews attendant to the process of item identification and assignment of national stock numbers, proposed new items will be subjected to a technical review to associate them with items available through the GSA supply system. Where a similar item is available through the GSA supply system, the agency will be informed of the national stock number and source of supply and will be requested to use that item. If the requesting agency considers the technical differences such that the GSA item is unacceptable, a waiver shall be requested as required by § 101-26.100-2. The request for waiver shall reference the request for the item identification.

[39 FR 37060, Oct. 17, 1974]

§ 101-30.305 Exemptions from the system.

When an agency believes that the benefits of the Federal catalog system may be realized without formal participation, a request for an exemption shall be submitted to the General Services Administration (FFL), Washington, D.C. 20406. After reviewing the request for an exemption, GSA will inform the requesting agency of the decision and will provide instructions for implementation. The request for an exemption shall include, but not be limited to, the following information:

(a) Number of items repetitively procured, stored, distributed, or issued.

(b) Number of items currently used having national stock numbers.

(c) Identification system planned or in use other than the Federal catalog system.

(d) Whether procurement is centralized.

(e) Description of any catalogs published. If none, so state.

(f) Whether supply support is received from another agency including the name of the agency and category of item involved; e.g., electronics.

(g) Cost differential between submitting a request for cataloging action and identifying the item under the agency's current or planned system.

[43 FR 42257, Sept. 20, 1978]

Subpart 101-30.4—Use of the Federal Catalog System

§ 101-30.400 Scope of subpart.

This subpart prescribes the policies and procedures governing the dissemination of Federal catalog data, the conversion to and use of the Federal catalog system by Federal agencies, and the requesting of supply support from Government supply managers.

[43 FR 42257, Sept. 20, 1978]

§ 101-30.401 Data available from the Federal Catalog System.

Federal Catalog System data are available in publications of general interest to Government supply activities and in the form of automated output tailored to meet individual agency needs.

[42 FR 36255, July 14, 1977]

§ 101-30.401-1 Publications providing Federal catalog data.

(a) Federal Catalog System publications contain selected data from the Defense Logistics Services Center (DLSC) files chosen, assembled, and formatted to meet recognized needs for information in support of assigned missions, functions, and related responsibilities. Most publications are produced in microfiche form; however, some are produced in hard copy form. The following publications are available:

(1) *Master cross-reference list.* A microfiche publication which contains a master list of national stock numbers (NSN's) cross-referenced to and from manufacturers' part numbers, specifications, or reference drawings. This publication is used to cross-relate reference numbers and stock numbers or to ascertain the manufacturer of an item when the reference number or the NSN is known.

(2) *Identification list (IL).* A microfiche publication arranged by Federal supply class and containing descriptions of items in the DLSC file. The principal uses of the IL are to obtain or verify an NSN when only the characteristics of the item are known or descriptive data when the NSN is known, and to determine interchangeable or substitutable items.

(3) *Management data list.* A microfiche publication tailored to the military services which contains supply management data for use in procurement, requisitioning, storing, and issuing operations within the Army, Navy, Air Force, and Marine Corps.

(4) *Federal item logistics data records (FILDR).* A microfiche publication containing complete identification data in tabular format for all descriptive-type item identifications. The data are arranged in NSN sequence within Federal supply class. An FILDR is known in hard copy form as a DD-146 card which is furnished as an output to authorized receivers of Federal catalog data who cannot use other available output media.

(5) *Catalog management data.* A microfiche publication which is a consolidated listing of NSN's and related supply management data of each integrated manager and military service. These data include Government source of supply, unit of issue, unit price, etc.

(6) *Defense Logistics Agency (DLA) Federal Supply Catalog for Civil Agencies.* This publication (available in hard copy only) includes NSN's for which DLA is the single source of supply for civil agencies. These NSN's may not necessarily have a DOD user recorded. The publication contains descriptive and management data for items not usually listed in the GSA catalog but which might be required by civil agencies.

(b) Agencies may obtain without charge copies of the DLA Federal Supply Catalog for Civil Agencies, described in paragraph (a)(6) of this section by contacting the Defense Logistics Services Center, DLSC-TP, Federal Center, Battle Creek, MI 49016. To obtain copies of the publications described in paragraphs (a) (1) through (5) of this section, agencies may submit a request in writing to the same address shown above, except that the applicable mail distribution code is DLSC-AP. Information concerning the charges for the latter publications is available from DLSC-AP.

[42 FR 36255, July 14, 1977]

§ 101-30.401-2 Automated catalog data output.

As a result of participation in the Federal catalog system, activities may receive data directly from DLSC tailored to their individual needs in support of their own supply management data system. The two basic categories of file maintenance are:

(a) *Simplified file maintenance (SFM).* Subscribers to this category of file maintenance are provided replacement files (magnetic tape) semiannually containing selected technical and supply management data for those items on which they are a registered user. The subscriber will also receive a monthly maintenance update and cumulative monthly basic records from DLSC which may be used to maintain the simiannual basic file. Recipients of this form of file maintenance have latitude in selecting those items which meet the needs of their supply system from the categories of data available from the Federal Catalog System.

(b) *Regular file maintenance (RFM).* This form of the file maintenance provides activities with data on a daily basis as transactions affect items upon which they are a registered user. It is used primarily by those activities which consider it essential to maintain file compatibility with the DLSC file at all times.

[42 FR 36255, July 14, 1977]

§ 101-30.402 Conversion.

Following completion of cataloging action, GSA will establish a time period in which conversion to the Federal Catalog System shall be accomplished by all civil agencies. The terminal dates for conversion will be established after consultation with the civil agencies concerned.

[29 FR 16004, Dec. 1, 1964]

§ 101-30.403 Utilization.

On and after the established date for completion of conversion, all interagency and intra-agency transactions involving item identifications, commodity classification, or stock numbers shall be in the terms of the Federal Catalog System.

[29 FR 16004, Dec. 1, 1964]

§ 101-30.403-1 Reports of excess and surplus personal property.

For items of personal property which have been identified in the Federal Catalog System, national stock numbers and Federal item identifications, with such additional descriptive detail as is required, shall be utilized in reports and listings of excess and surplus personal property. The assignment of national stock numbers and Federal item identifications shall not be required for items of excess or surplus personal property which have not been identified in the Federal Catalog System.

[39 FR 37060, Oct. 17, 1974]

§ 101-30.403-2 Management codes.

For internal use within an agency, alphabetic codes excluding letters "I" and "O" may be prefixed or suffixed to the national stock number as CM7520-00-123-4567 or 7520-00-123-4567CM, as required for supply management operations. Numeric codes shall not be affixed immediately adjacent to or as a part of the national stock number, nor shall codes be intermingled in the national stock number.

[41 FR 11309, Mar. 18, 1976]

§ 101-30.404 Supply support.

Civilian agencies requiring supply support on an item of supply shall request this action by preparing Standard Form 1303, Request for Federal Cataloging/Supply Support Action (illustrated at § 101-30.4901-1303), and submitting the form to the General Services Administration (FFLD), Washington, D.C. 20406. Guidance on the preparation of supply support requests is contained in the GSA Handbook, Federal Catalog System—Logistics Data (FPMR 101-30.3), issued by the Commissioner, Federal Supply Service.

[43 FR 42257, Sept. 20, 1978]

§ 101-30.404-1 Consolidation of supply support requests.

Requests for supply support should be consolidated in one focal point within each agency or activity. On the basis of the total consolidated agency or activity requirement; i.e., annual demand, GSA can determine the most economical and efficient method of supply support.

[43 FR 42257, Sept. 20, 1978]

Subpart 101-30.5—Maintenance of the Federal Catalog System

§ 101-30.500 Scope of subpart.

This subpart prescribes the policies and procedures governing the maintenance of the Federal Catalog System.

[31 FR 11106, Aug. 20, 1966]

§ 101-30.501 Applicability.

In accordance with the provisions of the Federal Catalog System Policy Manual (DOD 4130.2-M) and the Defense Integrated Data System (DIDS) Procedures Manual (DOD 4100.39-M) (see § 1101-30.201), the Defense Logistics Services Center (DLSC), Battle Creek, MI 49016, has established an automatic data processing capability for receiving, storing, and retrieving data associated with the Federal Catalog System. GSA is the agency designated to coordinate the cataloging efforts of civilian agencies with DLSC to ensure the integrity of the system and the compatibility of military and civil agency participation in the Federal Catalog System.

[41 FR 11309, Mar. 18, 1976]

§ 101-30.502 [Reserved]

§ 101-30.503 Maintenance actions required.

After converting to the Federal Catalog System, the agency concerned shall promptly take maintenance actions affecting the items converted and new items to be added. These actions may include deletion or revision of item identification or management data, or any other change required to ensure that the recorded data are maintained on a current basis. Submission of data to DLSC shall be as follows:

(a) As new items meeting criteria for national stock number assignment are added to their supply systems, agencies shall submit data to GSA or, when a direct submitter to catalog data is involved, to DLSC in accordance with § 101-30.303.

(b) Agencies shall originate maintenance actions when it is determined that revision to item identification or management data is warranted. These actions include: Deletion as a user, recommendation for Federal supply classification (FSC) change, change to physical characteristics and/or reference (specification or manufacturer) data, and any other change required to ensure that the recorded data are maintained on a current basis.

(c) Agencies authorizd to submit catalog data direct to DLSC as provided in § 101-30.303(a) shall comply with item maintenance and data collaboration procedures as set forth in the Defense Integrated Data System (DIDS) Procedures Manual (DOD 4100.39M).

(d) All civilain agencies not authorized to submit catalog data to DLSC shall use Standard Form 1303, Request for Federal Cataloging/Supply Support Action, to request maintenance action. Proposed maintenance requests shall be submitted to GSA for collaboration and submission to DLSC, except that civilian agencies receiving supply support from DLA supply centers, as expressed in the DLSC user record by major organizational entity (MOE) rule, should submit proposed maintenance requests to the appropriate DLA supply center for collaboration and submission to DLSC. When GSA receives maintenance requests for these items, they will be referred to the appropriate DLA supply center.

[41 FR 11310, Mar. 18, 1976 and 42 FR 36255, July 14, 1977; 43 FR 18673, May 2, 1978]

§ 101-30.504 Cataloging data from Defense Logistics Services Center (DLSC).

Upon receipt of cataloging data from civil agencies, DLSC will process the data and provide for their inclusion in the Federal Catalog System. Notification to the submitting and originating agencies of the action taken by DLSC will be as required in the Federal Catalog System Policy Manual (DOD 4130.2-M) and will be accomplished by means of electric accounting machine cards, magnetic tape, or wire transmission, according to the capabilities of those agencies. DLSC will send this information to the agencies that are designated by GSA as direct data receivers. Otherwise, DLSC will transmit the information to the submitting agency to be forwarded to the originating agency, when required.

[42 FR 36256, July 14, 1977]

§ 101-30.505 Assistance by Government suppliers.

When a new item is to be introduced into an agency supply system, the agency establishing the need for the new item shall determine whether or not adequate identification data for cataloging the item are available. If the data are not available, the agency may specify in procurement documents the use of Federal Standard No. 5, Standard Guides for Preparation of Proposed Item Logistics Data Records, and submission of the cataloging data required by that standard to the contracting officer (for further processing in accordance with this Subpart 101-30.5).

[41 FR 11310, Mar. 18, 1976]

Subpart 101-30.6—GSA Section of the Federal Supply Catalog

§ 101-30.600 Scope of subpart.

This subpart describes that section of the Federal Supply Catalog issued by GSA and authorizes its issuance by the Commissioner, Federal Supply Service.

[35 FR 3071, Feb. 17, 1970]

§ 101-30.601 Objective.

GSA Federal supply catalogs are designed to facilitate acquisition of GSA managed items and services from established sources of supply by Federal agencies and other organizations which may be authorized to use GSA sources of supply.

[35 FR 3071, Feb. 17, 1970]

§ 101-30.602 Authority for issuance.

The GSA section of the Federal Supply Catalog is issued as an integral part of the Federal Supply Catalog and the Federal Catalog System as prescribed in Subpart 101-30.1. The Commissioner, Federal Supply Service, is authorized to publish catalogs for those items and programs for which GSA furnishes supply support to Federal agencies.

[35 FR 3071, Feb. 17, 1970]

§ 101-30.603 GSA Supply Catalog.

(a) The GSA Supply Catalog is an illustrated series of publications which serve as the primary source for identifying items and services available from GSA supply sources.

(b) The GSA Supply Catalog is organized by commodity and is composed of the following five volumes:

(1) Furniture;
(2) Industrial Products;
(3) Office Products;
(4) Tools; and
(5) GSA Supply Catalog Guide.

(c) Changes to the GSA Supply Catalog are effected by periodical publications. The publications serve as the media for notifying agencies of additions, deletions, prices, and other pertinent changes.

(d) Special notices will be issued on a nonscheduled basis to inform agencies of program changes; general information; or additions, deletions, and other pertinent changes to the GSA Supply Catalog.

[43 FR 24533, June 6, 1978]

§ 101-30.603-1 [Reserved]

§ 101-30.603-2 GSA Supply Catalog.

The GSA Supply Catalog, published annually and updated quarterly, is an illustrated publication which serves as the primary source for identifying items and services available through the following GSA supply sources:

(a) GSA supply distribution facilities;

(b) Federal Supply Schedules; and

(c) Term Contract Program.

[39 FR 37060, Oct. 17, 1974]

§§ 101-30.603-3—101-30.603-4 [Reserved]

[36 FR 10951, June 5, 1971]

§ 101-30.603-5 Change bulletins.

Changes to the GSA Supply Catalog are effected by quarterly cumulative publications entitled "Change Bulletin to the GSA Supply Catalog." These change bulletins will serve as the media to notify agencies of additions, deletions, and other pertinent changes occurring between the annual publication of the GSA Supply Catalog.

[38 FR 28568, Oct. 15, 1973]

§ 101-30.603-6 Special Notices.

Special Notices will be issued on a nonschedule basis to advise agencies of program changes, general information, or additions, deletions, and other pertinent changes to the GSA Supply Catalog.

[38 FR 28568, Oct. 15, 1973]

§ 101-30.604 Availability.

Agencies that require current copies of, and desire to be placed on distribution lists to receive Federal supply catalogs and related publications shall complete GSA Form 457, FSS Publications Mailing List Application (illustrated at § 101-26.4902-457), and forward the completed GSA Form 457 to General Services Administration (8FFS), Centralized Mailing Lists Services, Building 41, Denver Federal

Center, Denver, CO 80225. Copies of GSA Form 457 may also be obtained from the above address. From time to time Centralized Mailing Lists Services will request information from agency offices for use in maintaining up-to-date distribution lists.

[43 FR 24533, June 6, 1978]

Subpart 101-30.7—Item Reduction Program

SOURCE: 43 FR 4999, Feb. 7, 1978, unless otherwise noted.

§ 101-30.700 Scope of subpart.

This subpart defines the objectives of the item reduction program and assigns responsibilities for its operation. Procedures implementing the policy set forth herein are contained in the GSA Handbook, Item Elimination (FPMR 101-30.7), issued by the Commissioner, Federal Supply Service.

§ 101-30.701 Definitions.

As used in this Subpart 101-30.7, the following terms shall have the meanings set forth in this § 101-30.701.

§ 101-30.701-1 Item reduction study.

"Item reduction study" means the study of a group of generally similar items which are subject to evaluation by physical and performance characteristics. This evaluation process identifies items determined to be unnecessarily similar or uneconomical for Government use and which will be considered for removal from Government supply systems. For items so identified, a replacement item shall be proposed. The result of item reduction studies will indicate items which are authorized for procurement or not authorized for procurement.

§ 101-30.701-2 Item standardization code.

"Item standardization code (ISC)" means a code assigned an item in the supply system which identifies the item as authorized for procurement or not authorized for procurement.

§ 101-30.701-3 Preparing activity.

"Preparing activity" means a Government agency responsible for the preparation of item reduction studies, or an activity authorized by the listed agencies to conduct an item reduction study. The DOD Standardization Directory SD-1 provides such a listing.

§ 101-30.701-4 Standardization relationship.

"Standardization relationship" means the relationship between the replaced item and the replacement item. The replaced item will contain an item standardization code designating the item as not authorized for procurement and therefore must have a replacement item. The relationship of the two items is displayed within the item reduction study by item standardization codes and, upon approval of the study, in the Federal catalog system data base at the Defense Logistics Services Center (DLSC).

§ 101-30.702 Determining item reduction potential.

Item reduction studies are required where there are large numbers of generally similar items which are subject to grouping and examination by item name, item name modifiers, or other characteristics such as sizes, grades, lengths, and materials. Before conducting a full scale item reduction study, the assignee activity shall determine whether sufficient item reduction potential appears to exist. Item reduction studies shall be undertaken only when the expected benefits outweigh the costs of performing the study.

§ 101-30.703 Program objectives.

The objective of the item reduction program is to reduce the varieties and sizes of similar items in the Government supply system by:

(a) Implementing a coordinated item reduction process among supply managers of using activities;

(b) Standardizing items the Government uses;

(c) Ensuring that all participants in item reduction studies give priority to controlling and completing item reduction studies;

(d) Promptly recording decisions in the Federal catalog system data base; and

(e) Phasing out of the Government supply system those items identified in item reduction studies as not authorized for procurement to reduce cataloging, supply management, and warehousing costs; then following through to eliminate the items from agency catalog systems.

§ 101-30.704 Agency responsibilities.

§ 101-30.704-1 General Services Administration.

(a) The General Services Administration (GSA) will develop or authorize other Government agencies to develop item reduction studies on items within the Federal supply classification (FSC) classes for which GSA is the integrated material manager.

(b) GSA, as the civil agency coordinating activity for item reduction studies originated by both GSA and DOD, will:

(1) Distribute proposed item reduction studies, as appropriate, to all civil agencies recorded as users of the item in the DLSC data base. This distribution will be made by coordination letters in which a time frame for a response will be specified. GSA will interpret each nonresponse to a proposed study to mean that the activity concurs with the study. Extensions, when requested by an agency, will be granted by GSA.

(2) Respond to questions concerning proposed item reduction studies.

(3) Prepare a consolidated civil agency position paper (including comments and nonconcurrences) relative to each study upon receipt of user responses.

(4) Incorporate civil agency positions into proposed item reduction studies prepared by GSA or forward a consolidated civil agency position paper to appropriate preparing activities.

(5) Resolve controversies arising from proposed item reduction study recommendations.

(6) Review approved item reduction studies to ensure that concurrences and nonconcurrences from all civil agencies are accurately reflected.

(7) Register into the Federal catalog system, data base approved item reduction decisions concerning items within the FSC classes which are managed by GSA.

(8) Implement decisions documented in approved item reduction studies within the GSA supply system.

(9) Distribute approved item reduction studies to all recorded civil agency users. All civil agencies (except direct submitters of catalog data to DLSC) will also be forwarded covering letters which will request specific information relative to implementing the studies; i.e., inventory levels of items coded ISC 3. Activities not responding within the time frame specified (60 calendar days) will receive a followup notice before being automatically withdrawn as users of all items coded as not authorized for procurement.

§ 101-30.704-2 Other agencies.

Civil agencies participating in the Federal Catalog System shall:

(a) Conduct a review of the items included in the proposed study by the preparing activity with respect to the ISC to determine the impact the assigned code may have on the agency's supply system.

(b) Prepare and submit written comments on the proposed study to GSA within the time frame specified in the GSA coordination letter, concur with the study, or nonconcur on specific proposed standardization relationships. If comments cannot be prepared and submitted within the time frame specified, an extension shall be requested from GSA.

(c) Review the approved item reduction study and notify GSA in writing if the activity desires to remain or be deleted as a user of any item coded as not authorized for procurement. Those agencies which are direct submitters of catalog data to DLSC are excluded from the aforementioned requirement. Direct submitters of catalog data to DLSC shall promptly take all necessary cataloging actions resulting from the approved item reduction studies.

(d) Implement within the agency those item reduction decisions resulting from the study.

§ 101-30.705 GSA assistance.

Activities requiring assistance in fulfilling their responsibilities to the program shall contact the General Services Administration (FFL), Washington, D.C. 20406.

Subparts 101-30.8—101-30.48 [Reserved]

Subpart 101-30.49—Illustrations of Forms

§ 101-30.4900 Scope of subpart.

This subpart illustrates forms prescribed or available for use in connection with subject matter covered in other subparts of this Part 101-30.

[31 FR 11107, Aug. 20, 1966]

§ 101-30.4901 Standard forms.

(a) Standard forms are illustrated in this § 101-30.4901 to show their text, format, and arrangement and to provide a ready source of reference. The subsection numbers in this § 101-30.4901 correspond with the Standard form numbers.

(b) Standard forms illustrated in this § 101-30.4901 may be obtained by submitting a requisition in FEDSTRIP format to the GSA regional office providing support to the requesting activity.

[43 FR 18674, May 2, 1978]

§ 101-30.4901-1303 Standard Form 1303, Request for Federal Cataloging/Supply Support Action.

NOTE: The form illustrated in § 101-30.4901-1303 is filed with the original document and does not appear in the FEDERAL REGISTER.

[43 FR 18674, May 2, 1978]

PART 101-31—INSPECTION AND QUALITY CONTROL

Sec.
101-31.000 Scope of part.

Subpart 101-31.1—[Reserved]

Subpart 101-31.2—Use of Private Inspection, Testing, and Grading Services

101-31.200 Scope of subpart.
101-31.201 Definition of private organizations.
101-31.202 Testing services.
101-31.203 Inspection and grading services.
101-31.204 Arranging for inspection, testing, or grading by private organizations.
101-31.205 Referral to Comptroller General.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

SOURCE: 29 FR 13257, Sept. 24, 1964, unless otherwise noted.

§ 101-31.000 Scope of part.

This part prescribes policy, guidelines, and procedures related to inspection, testing, and grading of supplies or services.

Subpart 101-31.1—[Reserved]

Subpart 101-31.2—Use of Private Inspection, Testing, and Grading Services

§ 101-31.200 Scope of subpart.

(a) This subpart prescribes policies and procedures governing use by executive agencies of private organizations in discharging their responsibility as set forth in § 1-14.102 of this title to inspect or arrange for the inspection of purchased supplies and services. For the type and extent of inspection required, see § 1-14.101(b) of this title.

(b) Where an agency has explicit statutory authority to procure services of this nature, it may do so without adhering to the requirements set forth in this subpart.

§ 101-31.201 Definition of private organizations.

As used in this subpart, "private organizations" includes all facilities devoted to rendering inspection, testing, and grading services which are not a part of an agency of the Federal Government.

§ 101-31.202 Testing services.

Testing services required to determine compliance of purchased supplies or services with contract requirements may be procured from private organizations if the situation meets all of the following conditions:

(a) It has been determined by an executive agency that its personnel or another Federal agency cannot perform the required testing as efficiently or economically as a qualified private organization;

(b) The testing services required are of a technical nature involving the application of scientific principles and the use of test equipment, gages, or special apparatus; and

(c) The testing may be performed without direct Government supervision.

§ 101-31.203 Inspection and grading services.

(a) Inspection or grading, limited to an examination or careful scrutiny to determine from outward appearances or mechanical operation whether supplies or services offered by suppliers comply with contract requirements, is a service in which personal judgment is of major importance and as such shall be performed exclusively by regular employees of the Government under Government supervision.

(b) Technical inspections or grading, the results of which are more dependent on the application of scientific principles or specialized techniques than the element of personal judgment, shall also be performed by Government employees under Government supervision except that a private organization may be retained to render the technical inspection or grading service when an executive agency determines that one of the following conditions exists:

(1) The technical inspection or grading services required are of a specialized nature, and the agency is unable to employ the personnel qualified to perform the services properly or to locate another Federal agency capable of providing the services; or

(2) The inspection or grading results issued by a private organization are essential to verify the acceptance or rejection of a special commodity.

§ 101-31.204 Arranging for inspection, testing, or grading by private organizations.

(a) Inspection, testing, or grading services to be procured from a private organization shall be obtained in accordance with the agency's procurement policies and procedures subject to the following conditions:

(1) The Government agency shall determine that the organization to be retained is qualified to perform expertly the required inspection, testing, or grading services and is professionally responsible;

(2) Remuneration for performance of services shall be based on accomplishing units of work such as submission of reports on inspection, test, or grading results and shall not be based on time required to perform the services; and

(3) The organization shall be permitted to select personnel for performing the services without agency direction. An agency should specify the type of qualifications personnel performing the services should possess.

(b) When a private organization has been retained by an agency to perform technical inspection, testing, or grading services, information developed and reports issued by the organization must be evaluated and considered by the Government official or employee responsible for determining acceptability of the supplies or services.

§ 101-31.205 Referral to Comptroller General.

If an executive agency, after reviewing the requirements set forth in §§ 101-31.203 and 101-31.204 has a question regarding the propriety of utilizing a private organization's services, a complete statement of the circumstances should be forwarded to the Comptroller General of the United States for decision prior to entering into any binding arrangement with a private organization for rendering the services.

PART 101-32—[RESERVED]

PART 101-33—PUBLIC UTILITIES

Sec.
101-33.000 Scope of part.

Subpart 101-33.0—General Provisions

101-33.001 Definitions.
101-33.002 Applicability.
101-33.003 Submission of information.

Subpart 101-33.1—Utilization and Conservation of Utility Services

101-33.101 Surveys and recommendations.
101-33.102 Advice and assistance.

Subpart 101-33.2—Negotiation and Representation Involving Utility Services

101-33.201 Negotiations with utility suppliers.
101-33.202 Proceedings before regulatory bodies.

Subpart 101-33.3—Capital Credits

101-33.301 General.
101-33.302 Definitions.
101-33.302-1 Capital credits.
101-33.302-2 REA-financed cooperative.
101-33.303 Responsibility for handling capital credit notifications.
101-33.304 Disposition of capital credit retirements.
101-33.305 Cost-reimbursement type contracts.
101-33.306 Other provisions.

Subparts 101-33.4-101-33.48—[Reserved]

Subpart 101-33.49—Forms and Reports—[Reserved]

AUTHORITY: (Executive Order 11717 (38 FR 12315, May 11, 1973); sec. 205(c), 63 Stat. 390; (40 U.S.C 486(c)); Executive Order 11893 (41 FR 1040, Jan. 6, 1976).

SOURCE: 29 FR 13258, Sept. 24, 1964, unless otherwise noted. Redesignated at 43 FR 27191, June 23, 1978.

§ 101-33.000 Scope of part.

This part prescribes policies and methods governing the economical and efficient management of public utility services by executive agencies within the United States and its insular possessions.

Subpart 101-33.0—General Provisions

§ 101-33.001 Definitions.

As used in this part:

(a) "Public utility services" includes without limitation all utility services (except telecommunications services), such as electricity, gas, steam, water, and sewerage procured from a public utility supplier, and facilities for the supply of such services.

(b) Other terms which are defined in the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, hereinafter sometimes referred to as the "Property Act," shall have the meanings given to them in such Act.

§ 101-33.002 Applicability.

The provisions of this Part 101-33 apply to all Federal agencies to the extent specified in the Property Act, or other law, except in those instances where specific exemptions are approved by GSA, and except as hereinafter provided:

(a) The "Statement of Areas of Understanding between the Department of Defense and the General Services Administration in the Matter of Procurement of Utility Services," as amended (15 FR 8227 and 22 FR 871), shall govern the applicability of this Part 101-33 to the Department of Defense.

(b) The provisions of this Part 101-33 do not apply to the production, distribution, or sale of utility services by a Federal Agency.

(c) GSA will, upon request, furnish the services provided for in this Part 101-33 to any other Federal agency, mixed-ownership corporation, the District of Columbia, the Senate, the House of Representatives, and the Architect of the Capitol and any activity under his direction.

§ 101-33.003 Submission of information.

All information required under this Part 101-33, except where otherwise specified, shall be addressed to the General Services Administration, Federal Supply Service, Office of Transportation and Public Utilities, Public

Utilities Management Division (FZU), Washington, D.C. 20406.

[29 FR 13258, Sept. 24, 1964. Redesignated and amended at 43 FR 27191, June 23, 1978]

Subpart 101-33.1—Utilization and Conservation of Utility Services

§ 101-33.101 Surveys and recommendations.

GSA, in coordination with the agency involved, will from time to time survey executive agency requirements for, and utilization and conservation of, utility services and facilities and, with due regard to the program activities of the agency involved, will make such recommendations for improvements as may be deemed advantageous to the Government in terms of economy, efficiency, or service. Executive agencies shall carry out such recommendations.

§ 101-33.102 Advice and assistance.

GSA, upon request of the agency involved, will provide advice and assistance to executive agencies regarding utilization and conservation of utility services and facilities.

Subpart 101-33.2—Negotiation and Representation Involving Utility Services

§ 101-33.201 Negotiations with utility suppliers.

GSA, in behalf of executive agencies as utility consumers, will conduct negotiations with utility suppliers; and, where prior negotiation has failed or is not feasible and where circumstances warrant, will institute such formal or informal action, as may be deemed advisable, before Federal and State regulatory bodies to contest the level, structure, or applicability of rates or service terms of utility suppliers.

§ 101-33.202 Proceedings before regulatory bodies.

Pursuant to the provisions of section 201(a)(4) of the Property Act, with respect to proceedings involving public utility rates or service before Federal and State regulatory bodies, executive agencies shall refer to GSA for consideration all complaints and petitions proposed to be brought before such regulatory bodies. Executive agencies shall submit full information concerning the proposed action. GSA will determine, on the basis of the information so submitted and the then existing arrangements, whether it will handle the proceedings, in cooperation with other interested agencies, or delegate the handling of the proceedings to the referring agency, depending on which course of action is deemed to be in the best interest of the Government.

Subpart 101-33.3—Capital Credits

SOURCE: 36 FR 13687, July 23, 1971, unless otherwise noted. Redesignated at 43 FR 27191, June 23, 1978.

§ 101-33.301 General.

Some Federal agencies procure public utility services from Rural Electrification Administration (REA)-financed cooperatives. Since REA-financed cooperatives are nonprofit organizations, any amount paid by participating agencies (also referred to as patrons) in excess of cost of services (usually referred to as operating margins) is treated as capital furnished by such patrons. Operating margins are determined annually on a patronage basis and credited to a capital account for each patron. The cooperative returns the share of the net income credited to agencies on a revolving basis by cash payments or deductions in current service bills when the cooperative's board of directors determines that such a retirement will not impair the cooperative's financial condition.

§ 101-33.302 Definitions.

As used in this Subpart 101-33.3, the following terms shall have the meanings stated below.

§ 101-33.302-1 Capital credits.

Capital credits are patronage dividends derived from amounts paid by patrons in excess of cost of services. Agencies are informed of their share of the capital credit, if any, by written notices of allocation issued by REA-financed cooperatives.

§ 101-33.302-2 REA-financed cooperative.

An REA-financed cooperative is a nonprofit organization that furnishes electric or telephone services to customers, including Federal agencies.

§ 101-33.303 Responsibility for handling capital credit notifications.

Contracting and procurement officers and other employees of Federal agencies shall forward promptly any capital credit notifications to their finance officer or other accountable official. The accountable official shall retain the notification in the official files of the agency.

§ 101-33.304 Disposition of capital credit retirements.

When capital credits are (a) settled by payment to the Government or (b) offset on billings to the Government, the amount received shall be deposited in the Department of the Treasury as miscellaneous receipts, or treated as a cost reduction, as appropriate.

§ 101-33.305 Cost-reimbursement type contracts.

Federal agencies having cost-reimbursement type contracts with contractors who purchase electric or telephone service from cooperatives shall include in their contracts arrangements for handling capital credits. The applicable portion of any capital credit retirement relating to any allowable cost received by or accruing to a cost-reimbursement type contractor shall be credited to the Government either as a cost reduction or by cash refund, as appropriate. (See § 1-15.201-5.)

§ 101-33.306 Other provisions.

(a) Capital credits shall not be waived by contract or in any other way.

(b) The right to any capital credit is not lost by reason of subsequent discontinuance of service.

Subparts 101-33.4—33.48 [Reserved]

Subpart 101-33.49—Forms and Reports [Reserved]

PART 101-34—EMERGENCY PREPAREDNESS PLANNING

Sec.
101-34.000 Scope of part.
101-34.001 Applicability.
101-34.002 Definitions.
101-34.003 GSA Handbook, Emergency Supply Support Operations.

Subpart 101-34.1—Preattack Defense Emergency Plans

101-34.100 Scope of subpart.
101-34.101 Requisitioning instructions.
101-34.102 Pre-positioned stocks.
101-34.103 FSS emergency coordination centers.
101-34.104 Agency supply requirements.
101-34.105 Agency supply liaison.

Subpart 101-34.2—Postattack Defense Emergency Plans

101-34.200 General.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

SOURCE: 32 FR 4024, Mar. 14, 1967, unless otherwise noted.

§ 101-34.000 Scope of part.

This part provides policies and procedures relating to procurement and supply of personal property and nonpersonal services during periods of national emergency.

§ 101-34.001 Applicability.

The provisions of this part are applicable to all executive agencies. Other Federal agencies are encouraged to conform with the provisions of this part.

§ 101-34.002 Definitions.

As used in this part the following terms shall apply:

(a) *Civil readiness levels.* The Federal Preparedness Agency, GSA, has established civil readiness levels to ensure that Federal civil agencies will be properly and accurately notified of emergency situations. These levels, described below, are independent of and have no direct relationship to the Defense Readiness Conditions (DEFCONS) of the Department of Defense.

(1) *Communications watch.* Announcement of this readiness level requires normal or near normal emergency preparedness by Federal civil agencies having nonmilitary defense responsibilities.

(2) *Initial alert.* When notified of this readiness level, Federal civil agencies shall establish continuous manning of primary emergency operation centers.

(3) *Advanced alert.* This readiness level indicates the President desires achievement of the highest degree of civil emergency readiness and will result in a general and public participation in emergency and civil preparedness actions.

(b) *Defense Readiness Conditions (DEFCONS).* DEFCONS are military announcements, progressing from 5 through 1, which indicate the degree of preparedness required by national emergency conditions short of attack warning. DEFCONS 5 and 4 require continuance of normal preparedness. DEFCONS 3, 2, and 1 represent stepped-up readiness actions from moderate to maximum preparation to ensure performance of emergency functions. In support of the Department of Defense during such emergency conditions, the Federal Supply Service (FSS) will respond to DEFCON changes.

[42 FR 11836, Mar. 1, 1977]

§ 101-34.003 GSA Handbook, Emergency Supply Support Operations.

Detailed instructions and guidelines on implementing GSA emergency preparedness plans are provided in the GSA Handbook, Emergency Supply Support Operations, which is issued by the Commissioner, FSS. Since the handbook identifies actions to be taken to obtain supplies, equipment, and services from or through GSA in the postattack period, agencies should pre-position copies at their emergency operation centers.

[42 FR 11836, Mar. 1, 1977]

Subpart 101-34.1—Preattack Defense Emergency Plans

§ 101-34.100 Scope of subpart.

This subpart provides policy, procedures, and guidelines relating to the procurement of personal property and nonpersonal services from GSA during periods of national defense emergency.

§ 101-34.101 Requisitioning instructions.

(a) Normal FEDSTRIP/MILSTRIP requisitioning procedures shall be followed during the preattack period. GSA will issue appropriate instructions if emergency conditions result in material shortages or other developments which require changes in supply methods or procedures.

(b) Requisitions shall be processed for shipment in accordance with the assigned priority designator code unless otherwise directed by a higher authority.

(c) At the time of an attack upon the United States all agency requisitions in process shall be canceled. After assessment of damages, agencies shall submit new requisitions based on an evaluation of current requirements.

[42 FR 11836, Mar. 1, 1977]

§ 101-34.102 Pre-positioned stocks.

The Federal Preparedness Agency, GSA, encourages agencies to pre-position stocks of essential supplies and equipment which will be needed for the first 15 to 30 days of operation at agency emergency operation centers. Such action will ensure availability of operating supplies in the event of a surprise attack. Agencies unable to pre-position those supplies prior to directive authority to activate the emergency operation centers shall prepare and hold requisitions which can be immediately released to the supply support activity.

[42 FR 11837, Mar. 1, 1977]

§ 101-34.103 FSS emergency coordination centers.

Upon declaration of defense emergency conditions (DEFCON 3, Initial alert, or higher), emergency coordination centers will be activated by the Federal Supply Service (GSA) at its

Central Office and in each region to provide 24-hour continuous service to monitor high priority requirements. This service will include assistance for specialized procurements and expedited deliveries and determination of availability of critically needed items. At the time of activation, GSA will coordinate supply support actions with agency supply officials on record with GSA.

[42 FR 11837, Mar. 1, 1977]

§ 101-34.104 Agency supply requirements.

To enable GSA to meet supply support demands under emergency defense conditions, agencies shall identify items for which increased requirements are anticipated. Items shall be listed by national stock number and shall show the normal annual and anticipated emergency requirements for each item. These lists shall be submitted to the General Services Administration (FP), Washington, D.C. 20406. Using this data GSA can, as appropriate and feasible, alert suppliers of the anticipated increases, arrange for increased quantities under existing contracts, provide for increased GSA inventories, or develop data on additional sources of supply.

[42 FR 11837, Mar. 1, 1977]

§ 101-34.105 Agency supply liaison.

(a) GSA provides for 24-hour supply support service to process emergency or other urgent requirements which arise after normal duty hours. GSA regional offices publish in regional bulletins or notices the names and telephone numbers of persons to contact when 24-hour supply support service is needed. The GSA Supply Catalog also lists emergency telephone numbers for this purpose.

(b) GSA also provides field liaison service to military and civil agencies through the Customer Service Representative (CSR) program. CSR's are located in the GSA Central Office, regional offices, and Europe. The applicable CSR should be contacted if additional assistance is required concerning adequate supply support during national defense emergencies.

[42 FR 11837, Mar. 1, 1977]

Subpart 101-34.2—Postattack Defense Emergency Plans

§ 101-34.200 General.

GSA plans and procedures for emergency operations following an attack upon the United States are included in the Code of Emergency Federal Regulations (CEFR). Selected portions of those plans are included in the GSA Handbook, Emergency Supply Support Operations.

[36 FR 12296, June 30, 1971]

APPENDIX TO SUBCHAPTER E—TEMPORARY REGULATIONS

[EDITORIAL NOTE: The following is a list of temporary regulations, except delegations of authority, which relate to Federal property management and are in effect as of the revision date of this volume]

FPMR Temp. Reg.	Subject	Expires	FR Publication
[1] E-47	Teleprocessing services program.	Sept. 30, 1981	41 FR 34634, Aug. 16, 1976
[1] E-47, Supp. 6	......do	Sept. 30, 1981	44 FR 61963, Oct. 29, 1979
[1] E-47, Supp. 7	......do	Sept. 30, 1981	45 FR 64177, Sept. 29, 1980
[1] E-71	Procurement of burner fuel oil	Dec. 31, 1981	45 FR 47149, July 14, 1980
[1] E-71, Supp. 1	......do	Dec. 31, 1981	46 FR 31890, June 18, 1981
[1] E-72	Information system for furniture, furnishings, and certain other items.	Sept. 30, 1981	45 FR 58122, Sept. 2, 1980
[1] E-73	Request for waivers	Feb. 28, 1982	46 FR 31891, June 18, 1981

[1] These temporary regulations appear in full text below.

[FPMR Temp. Reg. E-47]

TELEPROCESSING SERVICES PROGRAM

1. *Purpose.* This regulation notifies agencies of the establishment of the Teleprocessing Services Program (TSP), describes the program, and prescribes procedures by which Federal agencies utilize the program to acquire teleprocessing services from the private sector.

2. *Effective date.* This regulation is effective August 16, 1976.

3. *Expiration date.* This regulation expires January 31, 1977, unless sooner revised or superseded.

4. *Scope of TSP.* The TSP shall be the mandatory method by which Federal agencies acquire teleprocessing services from the private sector. Services covered by the TSP include full service (interactive and remote batch), interactive, and remote batch processing. The TSP also provides for the acquisition of training, documentation, software packages, and analyst/programmer support incidental to the acquisition and use of teleprocessing services. Facilities management services, teleprocessing systems dedicated to an agency's particular application, arrangements where title to ADP equipment is vested at any time in the Federal Government, or ADP equipment that is 100 percent reimbursed by the Government under a cost-type arrangement are not covered under this program. At this time, local batch services are not included.

5. *Procedures for acquiring teleprocessing services*—a. *Initiation of requests.* Agencies requiring teleprocessing service shall define their requirements and submit a GSA Form 2068, Request for ADP Service, to the Agency Services Coordination Division (ASCD), Automated Data and Telecommunications Service, of the appropriate GSA regional office, or to the ADP sharing exchange serving the agency facility. The requirements shall be met by Government resources if they are available. If not, agencies will be granted a delegation of procurement authority to use the TSP, in the form of an approved GSA Form 2068, or agencies will be advised that GSA will perform the procurement as discussed in paragraph 5d. If agencies cannot satisfy their requirements for teleprocessing services from Government resources or through the TSP, they shall submit requests for waivers from the program to the appropriate GSA regional ASCD with a detailed explanation for the request. GSA approval of the request for the waiver is required before agencies initiate action to procure services from non-TSP Sources. GSA's decision on the request for the waiver will be provided to the agencies within 30 workdays of receipt of the request by GSA.

b. *Use of TSP.* The TSP offers two methods for acquiring teleprocessing services:

(1) *Multiple award schedule contracts.* (a) GSA will establish multiple award schedule contracts under which agencies may place orders for teleprocessing services. These contracts provide discounts based upon each vendor's Government-wide volume.

(b) Selection of a source of services from among the multiple award schedule contracts will be based on an economic evaluation to determine which vendor meets the requirement at the lowest system life cost. The system life cost includes all quantitative costs, including the price of teleprocessing services plus incidental support services from the vendor during the planned period of the application life, together with conversion and communications costs, if applicable. While the schedule contracts have annual terms and incremental discount rates, user system life cost estimates will be based upon rates and discounts known as being achieved at the time of evaluation. Agencies should use benchmarks in estimating costs instead of depending on pricelists only. Benchmarks are mandatory for large requirements. Specifically, at least three technically capable firms shall be benchmarked if the system life cost exceeds $500,000 or the annual cost exceeds $200,000. If the annual cost exceeds $400,000 or the systems life cost exceeds $1 million, all technically capable firms shall be benchmarked. Guidelines for source selection entitled "User Source Selection Considerations" are available from GSA regional ASCD and will be made available to agencies granted delegations to use the TSP.

(2) *Basic agreements.* GSA provides a BA defining terms and conditions for obtaining teleprocessing services from commercial firms. Agencies may employ the BA-type competition for any particular teleprocessing services requirement in lieu of ordering from the schedule contracts. Such an action may occur based on a belief that lower costs would result from a fully open competition for the requirement or if the terms and conditions or technical capabilities of the schedule contracts do not meet user requirements.

c. *Noncompetitive acquisitions.* Noncompetitive or sole source orders under TSP are those that can be met by only one vendor through the use of the multiple award schedule contract with that vendor. Orders for such procurements shall be based on a sole source justification rather than on an economic evaluation. If the selected vendor does not have a multiple award schedule contract, a waiver from the program must be obtained from GSA before agencies acquire the sole source services.

d. *Procurement by GSA.* GSA may withhold delegation of authority for the acquisition of teleprocessing services for the BA procurements under the TSP. A decision to procure or delegate will be made at the time the GSA Form 2068 is submitted. If GSA conducts the procurement, the division of responsibility between the requesting agency and GSA will be similar to that used in the procurement of ADP equipment or related items as stated in FPMR 101-32.405.

6. *Procedures for renewal of existing contracts.* a. The TSP provides the means for meeting all of the Government's teleprocessing requirements at the expiration of existing contractual arrangements or when new requirements are identified and services are needed. Agencies with existing contractual sources of teleprocessing services may continue to employ such sources until the end of the agency contract unless an economic analysis indicates that it is in the best interest of the Government to use the TSP sources of supply. While existing contractual arrangements do not have to be terminated upon implementation of the TSP, a basic objective of the program is to recompete, through multiple award schedule contracts or the BA, requirements at the expiration of existing contracts. Toward this end, requests to exercise opinions to renew existing contracts shall be submitted to GSA on GSA Form 2068 for approval and must contain a management and technical plan setting forth the means by which recompetition is to be accomplished. The plan will include a provision for quarterly progress reports to GSA showing achievements toward recompetition. GSA Form 2068A, Quarterly Report of ADP Service Provided to Another Agency or Obtained From a Commercial Source, shall be used for this purpose. This report has been reviewed in accordance with FPMR 101-11.11 and assigned Interagency Reports Control Number 1106-GSA-QU.

b. Agencies who are unable to recompete for a requirement at the expiration of an existing contract, and who plan to exercise a renewal, must submit a request to do so to the appropriate GSA regional ASCD for review at least 60 workdays before the expiration of the contract. The request shall be submitted on a GSA Form 2068 and must include a copy of the management and technical plan for recompetition. Instructions for preparation of these plans are available from the appropriate GSA regional ASCD.

7. *Preorder reviews.* Agencies must submit a request to GSA to place an order against a particular multiple award schedule contract if any of the following thresholds are exceeded:

	Basis for order	
	Economic evaluation	Sole source justification
Annual cost	$200,000	$40,000
System life cost	500,000	100,000

Requests shall include either a copy of the economic analysis or a copy of the sole source justification upon which the proposed order is based. Requests based on a sole source justification also shall include a management and technical plan illustrating how recompetition will be accomplished within a 2-year maximum period from the date that the teleprocessing service is initiated. Agencies shall submit requests to the appropriate GSA regional ASCD and shall not place an order until approval is granted by GSA. The preorder review of user selection procedures is intended to insure a complete evaluation and competitive selection of teleprocessing services.

8. *Postorder reviews.* Within 20 workdays after placing an order against a multiple award schedule contract, agencies shall submit to the appropriate GSA regional ASCD a copy of the order and a copy of the economic evaluation or sole source justification upon which the order is based if any of the following thresholds are exceeded:

	Basis for order	
	Economic evaluation	Sole source justification
Annual cost	$20,000	$10,000
System life cost	50,000	25,000

The postorder review is intended to identify problem areas and unique agency methods for selecting teleprocessing firms in an attempt to improve evaluation and selection procedures.

9. [Reserved]

10. *Effect on other issuances.* This regulation supplements requirements expressed in FPMR 101-32.2 and cancels GSA Bulletin FPMR F-72.

11. *Comments.* Comments may be submitted to the General Services Administration (CPSB), Washington, DC 20405, on or before October 15, 1976.

12. *Availability of GSA Forms 2068 and 2068A.* Agency field offices shall submit all requirements for these forms to their Washington headquarters office which will forward consolidated annual requirements to the General Services Administration (BRO), Washington, DC 20405.

13. *Assistance.* Further information on the TSP may be obtained from the appropriate

GSA regional ADP sharing exchanges. (See FPMR 101-32.4800 for addresses.)

JACK ECKERD,
Administrator of General Services.

AUGUST 3, 1976.

[41 FR 34634, Aug. 16, 1976]

FPMR Temp. Reg. E-47, Supp. 6]

SUPPLEMENT 6

1. *Purpose.* This supplement extends the expiration date of FPMR Temporary Regulation E-47 and makes changes in the scope and the mandatory dollar threshold for benchmarking teleprocessing services.

2. *Effective date.* This regulation is effective October 1, 1979.

3. *Expiration date.* This supplement expires on September 30, 1980.

4. *Explanation of changes.*

a. This supplement revises the expiration date in paragraph 3 of FPMR Temporary Regulation E-47 to September 30, 1980, and cancels Supplement 5.

b. Paragraph 4 of E-47 is revised by amending the fourth sentence and adding a "Note" at the end of the paragraph to read as follows:

4. *Scope of TSP.* The TSP shall be the mandatory method by which Federal agencies acquire teleprocessing services from the private sector. Services covered by the TSP include interactive and remote batch processing. The TSP also provides for the acquisition of training, documentation, software packages, and analyst/programer support incidental to the acquisition and use of teleprocessing services. Facilities management services, arrangements where title to ADP equipment is vested at any time in the Federal Government, or ADP equipment that is 100 percent reimbursed by the Government under a cost-type arrangement are not covered under this program. At this time, local batch services are not included.

NOTE: Services may be acquired under paragraph 5b(2) (Basic agreements) from vendors who dedicate all or part of the teleprocessing networks to satisfy an agency's requirements only when the solicitation document permits dedicated system proposals. If an agency desires to consider offers that involve a dedicated system, the solicitation document shall indicate that a dedicated system offer will be considered and shall include all of the evaluation factors that are to be used in selecting the successful proposal. Specifically, the solicitation document shall indicate the factors and the methodology that are to be used in evaluating dedicated system proposals versus time and resources used proposals to determine which proposal represents the lowest overall cost to the Government, price and other factors considered. In cases where an agency has a requirement for a dedicated system, prior approval from GSA is required.

c. Paragraph 5(b)(1)(b) is revised by deleting the sixth sentence and amending the seventh sentence to change the dollar threshold for benchmarking to read as follows:

(b) Selection of a source of services from among the multiple award schedule contracts shall be based on an economic evaluation to determine which vendor meets the requirement at the lowest system life cost. The system life cost includes all quantitative costs, including the price of teleprocessing services plus incidental support services from the vendor during the planned period of the application life, together with conversion and communications costs, if applicable. While the schedule contracts have annual terms and incremental discount rates, user system life cost estimates will be based upon rates and discounts known as being achieved at the time of evaluation. Agencies should use benchmarks in estimating costs instead of depending on pricelists only. Benchmarks are mandatory for large requirements. If the annual cost exceeds $200,000, all technically capable firms shall be benchmarked. Guidelines for source selection entitled "User Source Selection Considerations" are available from GSA regional ASCD and will be made available to agencies granted delegations to use the TSP.

d. Paragraph 5d is amended to change the FPMR reference in the last line to FPR 1-4.1105.

R. G. FREEMAN III,
Administrator of General Services.

[44 FR 61963, Oct. 29, 1979]

[FPMR Temp. Reg. E-47, Supp. 7]

TELEPROCESSING SERVICES PROGRAM

1. *Purpose.* This supplement extends the expiration dates of FPMR Temporary Regulation E-47 and Supplement 6 thereto.

2. *Effective date.* This regulation is effective October 1, 1980.

3. *Expiration date.* This supplement expires September 30, 1981.

4. *Explanation of changes.* This supplement revises the expiration dates in paragraph 3 of FPMR Temporary Regulation E-47 and its Supplement 6 to September 30, 1981.

[45 FR 64177, Sept. 29, 1980]

[FPMR Temp. Reg. E-71]

PROCUREMENT OF BURNER FUEL OIL

July 2, 1980.

1. *Purpose.* This regulation increases the minimum annual requirement for burner fuel oil as stated in § 101-26.602-3(a)(1) from 2,000 gallons to 10,000 gallons.

2. *Effective date.* This regulation is effective upon publication in the FEDERAL REGISTER.

3. *Expiration date.* This regulation expires on April 30, 1981, unless sooner revised or superseded. Before that date, this regulation will be codified in the permanent regulations of GSA appearing in Title 41 CFR, Public Contrcts and Property Management.

4. *Background.* Section 101-26.602-3(a)(1) now provides that estimated minimum annual requirements of less than 2,000 gallons for burner fule oil shall not be submitted to the Defense Fuel Supply Center of the Defense Logistics Agency (DLA) unless the requiring activity does not have authority or capability to procure locally. By increasing the minimum annual requirement for burner fuel oil from 2,000 gallons to 10,000 gallons. GSA and other agencies can take advantage of local sources for burner fuel oil through small purchase procedures. This action should make fuel more readily available at the point of need and allow DLA to devote its time and effort to larger quantity and dollar volume procurements.

5. *Effect on other directives.* This temporary regulation amends § 101-26.602-3(a)(1) by increasing the minimum annual requirement for burner fuel oil from 2,000 gallons to 10,000 gallons.

R. G. Freeman III,
Administrator of General Services.

[45 FR 47149, July 14, 1980]

[FPMR Temp. Reg. E-71, Supp. 1]

PROCUREMENT OF GASOLINE, FUEL OIL (DIESEL AND BURNER), KEROSENE, AND SOLVENTS

1. *Purpose.* This supplement extends the expiration date of FPMR Temporary Regulation E-71 and increases the minimum annual requirement for gasoline and diesel oil as stated in FPMR 101-26.602-3(a)(1) from 2,000 gallons to 10,000 gallons. Minimum annual requirements for kerosene increases from 500 gallons to 10,000 gallons.

2. *Effective date.* This regulation is effective June 18, 1981.

3. *Expiration date.* This supplement expires on December 31, 1981.

4. *Explanation of changes.*

a. The expiration date in paragraph 3 of FPMR Temporary Regulation E-71 is revised to December 31, 1981.

b. Paragraphs 4 and 5 of FPMR Temporary Regulation E-71 are revised to read as follows:

4. *Background.* Section 101-26.602-3(a)(1) now provides that estimated minimum annual requirements of less than 2,000 gallons for gasoline, burner fuel oil, and diesel oil, and less than 500 gallons for kerosene shall not be submitted to the Defense Fuel Supply Center of the Defense Logistics Agency (DLA) unless the requiring activity does not have authority or capability to procure locally. By increasing the minimum annual requirements for gasoline, burner fuel oil, and diesel oil from 2,000 gallons to 10,000 gallons, and kerosene from 500 gallons to 10,000 gallons, GSA and other agencies can take advantage of local sources through small purchase procedures. This action should make fuel more readily available where needed and allow DLA to devote its time and effort to larger quantity and dollar volume procurements.

5. *Effect on other directives.* This temporary regulation amends 101-26.602-3(a)(1) by increasing the minimum annual requirements for gasoline, burner fuel oil, and diesel oil from 2,000 gallons to 10,000 gallons. The minimum annual requirement for kerosene is increased from 500 gallons to 10,000 gallons.

Ray Kline,
Acting Administrator of General Services.

Dated: May 26, 1981.

[46 FR 31890, June 18, 1981]

[FPMR Temp. Reg. E-72]

INFORMATION SYSTEM FOR FURNITURE, FURNISHINGS, AND CERTAIN OTHER ITEMS

1. *Purpose.* This regulation requires agencies to submit information on the procurement of furniture, furnishings, and certain other items.

2. *Effective date.* This regulation is effective on October 1, 1980.

3. *Expiration date.* This regulation expires on September 30, 1981.

4. *Applicability.* The provisions of this regulation apply to all executive agencies.

5. *Background.* There is a need for the General Services Administration (GSA) to obtain specific data on furniture, furnishings, and certain other items acquired by agencies through Federal Supply Schedule contracts and through purchases on the open market. Without these data, GSA can neither evaluate and assess what agencies are buying nor develop an effective requirements-oriented supply system. By this regulation, GSA is promulgating a program to obtain these essential data from agencies for use in developing a data base for these items. The program will be used to develop a supply system for these items. At a later date the program may be expanded to include other items.

6. *Submission of information.* Each executive agency shall submit one legible information copy to GSA of each purchase order and any amendments thereto issued for Federal Supply Schedule FSC Group 71 commodities or for items purchased on the open market that are identical or which serve the same functional end-use purpose as those items

covered by FSC Group 71. The information copies shall be submitted at the time of issuance. When the affected items are purchased against a blanket purchase agreement (BPA) and a purchase order document is not issued, the agency shall submit an information copy of the delivery ticket or invoice that indicates the items purchased, price, ordering agency, and destination. The copies of the purchase orders and/or delivery tickets or invoices shall be sent to: General Services Administration, Purchase Order Database, P.O. Box 2300, Arlington, VA 22202. The purchase orders, delivery tickets, or invoices should include the name, address, and telephone number of the person or organization to be contacted regarding the purchase.

7. *Agency comments.* Comments concerning the effect or impact of this regulation on agency operations should be submitted to the General Services Administration (FFY), Washington, DC 20406, no later than January 30, 1981, for consideration and possible incorporation into a permanent regulation.

R. G. Freeman III,
Administrator of General Services.

Dated: August 22, 1980.

[46 FR 58123, Sept. 2, 1980]

[FPMR Temp. Reg. E-73]

REQUEST FOR WAIVERS

1. *Purpose.* This regulation establishes a dollar value threshold that will determine whether a waiver request will be approved by the agency or by GSA.

2. *Effective date.* This regulation is effective on March 1, 1981.

3. *Expiration date.* This regulation expires on February 28, 1982.

4. *Applicability.* The provisions of this regulation apply to all executive agencies.

5. *Background.* Federal Property Management Regulation 101-26.100-2 requires that Federal civilian and military agencies submit requests to waive GSA as a supply source when goods or services supplied by GSA will not serve the required functional end-use purpose. Existing waiver policy has been of limited value because of low participation by Federal agencies. In the past, 60 percent of the requests for waiver received by GSA have had dollar values less than $1,000. Thus, the cost of evaluating requests for waiver often exceeded the value of the items and resulted in an inefficient use of Government resources. Setting a dollar value threshold on waiver submissions will significantly reduce the workload imposed on GSA. At the same time, GSA will continue to monitor participation by requiring that agencies submit to GSA copies of purchase orders issued for agency-approved requests for waiver.

6. *Waiver requests.* When items or services available from GSA stock or Federal Supply Schedule will not serve the required functional end-use purpose, requests to waive the requirement for use of GSA sources shall be submitted to GSA for consideration when the purchases are valued at $1,000 or more. Requests for waiver for items or services with a total value (quantity multiplied by price) of less than $1,000 shall be evaluated and approved by a designated agency official. A copy of each purchase order issued for agency-approved requests for waiver shall be submitted to the Commissioner, Federal Supply Service, General Services Administration, Washington, DC 20406. Each purchase order copy shall be annotated to indicate that it has been issued as a result of an approved request for waiver. Waivers are not required for (a) items or services procured in accordance with policy set forth in FPMR 101-26.100-1 nor (b) the purchase of identical products from noncontract sources at delivered prices that are lower than the prices quoted in Federal Supply Schedules. In (b), above, agencies are required to submit copies of purchase orders issued in accordance with FPMR 101-26.401-4(f)(3).

7. *Waiver requests requiring GSA approval.*

a. Requests for waiver on purchases whose total value is $1,000 or greater shall be submitted to the Commissioner, Federal Supply Service, General Services Administration, Washington, DC 20406, and, if considered justified, will be approved. If disapproved, the requesting office will be so notified. Such requests shall contain:

(1) Complete description of the item requested. (Descriptive literature such as cuts, illustrations, drawings, and brochures which show the characteristics or construction should be furnished wherever possible in satisfaction of this requirement.)

(2) Comparison of price and pertinent technical differences between the item requested and the GSA item:

(a) Inadequacies of the GSA item in performing required functions.

(b) Advantages of the item requested, such as technical, economic, or other.

(3) Quantity required. (If demand is recurrent (estimate annual usage), nonrecurrent, or unpredictable, so state.)

(4) Other pertinent data when applicable.

b. Agencies shall not initiate action to procure similar items from non-GSA sources until a request for waiver has been requested from and approved by GSA. The fact that action to procure a similar item has been initiated will not influence GSA action on a request for waiver.

8. *Agency comments.* Comments concerning the effect or impact of this regulation on agency operations should be submitted to the General Services Administration (FRR), Washington, DC 20406, no later than June 30, 1981, for consideration and possible incorporation into a permanent regulation.

9. *Effect on other directives.* This temporary regulation supersedes the provisions of FPMR 101-26.100-2.

Ray Kline,
Administrator of General Services.

Dated: April 21, 1981.

[46 FR 31891, June 18, 1981]

SUBCHAPTER F—ADP AND TELECOMMUNICATIONS

PART 101-35 ADP AND TELECOMMUNICATIONS MANAGEMENT POLICY [1]

Subpart 101-35.0 Scope of Part—[Reserved]

Subpart 101-35.1 General—[Reserved]

Subpart 101-35.2—Management, Acquisition, and Utilization of Automatic Data Processing (ADP) Resources

Sec.

101-35.200 Scope of subpart.
101-35.200-1 Relationship to other directives.
101-35.201 Applicability.
101-35.202 Definitions.
101-35.202-1 Automatic data processing equipment.
101-35.202-2 Software terms.
101-35.202-3 Firmware.
101-35.202-4 Maintenance services.
101-35.202-5 Related supplies.
101-35.202-6 ADP services.
101-35.202-7 ADP related services.
101-35.202-8 Commercial ADP services.
101-35.202-9 Federal agency.
101-35.203 Policies.
101-35.203-1 Competition.
101-35.203-2 Responsibilities.
101-35.203-3 ADP plans.
101-35.203-4 Requirements analysis.
101-35.203-5 Urgent requirements.
101-35.203-6 Conversion management and planning.
101-35.203-7 Sharing and reutilization.
101-35.203-8 Privacy and security.
101-35.203-9 Standards.
101-35.203-10 Furnishing ADP items and services to contractors.
101-35.204 Planning requirements.
101-35.205 Specifications and purchase descriptions.
101-35.206 Conversion management and planning.
101-35.206-1 Procurement and management responsibilities.
101-35.206-2 Software conversion responsibilities.

Sec.

101-35.207 Determination of need and requirements analysis.
101-35.207-1 Severable ADP requirements.
101-35.208 Determination of system/item life.
101-35.209 Comparative cost analysis.
101-35.210 Evaluation of acquisition alternatives.
101-35.211 Least cost acquisition.
101-35.212 Assistance by GSA.

Subpart 101-35.3—Security of Federal ADP and Telecommunication Systems

101-35.300 Scope of subpart.
101-35.301 Policy.
101-35.302 Definitions.
101-35.303 Agency security responsibilities.
101-35.304 Security program elements.
101-35.304-1 Identification of sensitive systems and facilities.
101-35.304-2 Risk analysis.
101-35.304-3 Administrative, physical, and technical controls.
101-35.304-4 Privacy considerations.
101-35.305 Security program
101-35.306 Security specifications.
101-35.307 Certification of conformance to security specifications.
101-35.308 Security audit or evaluation.

Subparts 101-35.4—101-35.16 [Reserved]

Subpart 101-35.17—Privacy and Data Security for ADP and Telecommunications Systems

101-35.1700 Scope of subpart.
101-35.1701 Applicability.
101-35.1702 Definitions.
101-35.1703 Security and privacy requirements.
101-35.1704 Interagency services.
101-35.1704-1 User agency responsibilities.
101-35.1704-2 Provider agency responsibilities.
101-35.1705 Contractors' responsibilities.
101-35.1706 Agency documentation responsibilities.

AUTHORITY: Executive Order 11717 (38 FR 12315, May 11, 1973); sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); Executive Order 11893 (41 FR 1040, Jan. 6, 1976).

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[1] See Temporary Regulation F-496 in the appendix to Subchapter F for temporary changes to Part 101-35.

Subpart 101-35.0 Scope of Part—[Reserved]

Subpart 101-35.1 General—[Reserved]

Subpart 101-35.2—Management, Acquisition, and Utilization of Automatic Data Processing (ADP) Resources

SOURCE: 46 FR 1213, Jan. 5, 1981, unless otherwise noted.

§ 101-35.200 Scope of subpart.

(a) This subpart sets forth general policies and procedures relating to the management, acquisition, and utilization of ADP equipment (ADPE), software, maintenance, related supplies, ADP services, and ADP related services by Federal agencies.

(b) The objectives of this subpart are to promote full and open competition among suppliers who are capable of meeting the user's ADP needs and to satisfy these needs at the lowest overall cost, price and other factors considered.

§ 101-35.200-1 Relationship to other directives.

(a) Subpart 1-4.11 of the Federal Procurement Regulations (41 CFR Chapter 1, hereafter referred to as the FPR) prescribes policies and procedures governing the procurement and contracting for all ADPE, commercially available software, maintenance services, and related supplies.

(b) [Reserved]

(c) Part 101-36 provides detailed policies, procedures, and guidance pertaining to the Government-wide management of ADPE, software, and related matters including revolving fund, resources utilization, reutilization of equipment, ADP management information systems, standards, and computer performance evaluation.

(d) The acquisition, management, and utilization of ADP are subject to the fiscal and policy control of the Office of Management and Budget (OMB). In addition, OMB Circulars including A-10, A-11, A-71, A-108, and Transmittal Memoranda related thereto apply to ADP; the present value concept in A-94 also applies (see § 101-35.210). The applicability of A-76 and A-109 to agency activities is as determined and directed by OMB.

§ 101-35.201 Applicability.

(a) *Federal agencies.* The policies and procedures set forth in this Subpart 101-35.2 apply to the management, acquisition, and utilization of ADPE, software, maintenance services, related supplies, ADP services, and ADP related services (see § 101-35.202 for definitions) by Federal agencies regardless of use or application including Government-acquired ADPE, software, or related supplies provided to contractors.

(b) *Government contractors.* (1) Except as set forth in paragraph (b)(2) of this section, agencies shall require their contractors to apply the policies and procedures set forth in this subpart to the management, acquisition, and utilization of ADPE, commercially available software, maintenance services, and related supplies when the very subject matter of the contract(s) is for the performance of commercial ADP services for a Federal agency (see §§ 101-35.202-8 and 101-35.203-10); and

(i) The Government requires the contractor to purchase the ADPE or software for the account of the Government; or

(ii) The Government requires the contractor to pass title to the ADPE or software to the Government; or

(iii) The Government pays the full lease costs of the ADPE or software under a cost-reimbursement contract.

(2) When the very subject matter of a contract is for something other than the procurement of ADP items or services, and commercially available ADPE is incorporated into the non-ADP system or commercial ADP services are used in contract performance, the acquisition and management of the non-ADP system shall be in accordance with other applicable regulations rather than this Subpart 101-35.2 (but see § 101-35.203-10).

§ 101-35.202 Definitions.

The terms used in this subpart shall have the meanings set forth in this section.

§ 101-35.202-1 Automatic data processing equipment.

"Automatic data processing equipment" (ADPE) means[1] general purpose, commercially available, mass-produced automatic data processing devices; i.e., components and the equipment systems configured from them together with commercially available software packages which are provided and are not priced separately, and all documentation and manuals relating thereto, regardless of use, size, capacity, or price, that are designed to be applied to the solution or processing of a variety of problems or applications and are not specially designed, as opposed to configured, for any specific application.

(a) Included are:

(1) Digital, analog, or hybrid computers;

(2) Auxiliary or accessorial equipment, such as plotters, tape cleaners, tape testers, data conversion equipment, source data automation recording equipment (optical character recognition devices, paper tape typewriters, magnetic tape, card, or cartridge typewriters, word processing equipment, computer input/output microfilm and other data acquisition devices), or computer performance evaluation equipment; etc., designed for use with digital, analog, or hybrid computer equipment, either cable connected, wire connected, or stand alone, and whether selected or acquired with a computer or separately;

(3) Punched card accounting machines (PCAM) that can be used in conjunction with or independently of digital, analog, or hybrid computers;

(4) Data transmission or communications equipment, including front-end processors, terminals, sensors, and other similar devices, designed primarily for use with a configuration of ADPE.

(b) Excluded are:

(1) ADPE systems and components specially designed (as opposed to configured) and produced to perform a specific set or series of computational, data manipulation, or control functions to permit the processing of only one problem; and

(2) Commercially available ADPE that is modified to meet Government specifications at the time of production to the extent that:

(i) It no longer has a commercial market; or

(ii) It cannot be used to process a variety of problems or applications; or

(iii) It can be used only as an integral part of a non-ADP system.

§ 101-35.202-2 Software terms.

(a) "Software" means computer programs, procedures, rules, or routines specifically designed to make use of and extend the capabilities of ADPE and includes operating systems, assemblers, compilers, interpreters, data base management systems, utility programs, sort-merge programs, maintenance-diagnostic programs, and applications programs. The term encompasses operating systems software, independent subroutines, related groups of routines, sets or systems of programs, software documentation, firmware (see § 101-35.202-3), and computer data bases whether Government-owned or commercially available.

(b) "Commercially available software" means software that is available through lease or purchase in the commercial market from a concern representing itself to have ownership and/or marketing rights in the software. Software that is furnished as part of the ADP system but that is separately priced, is included.

(c) "Application software" means a series of instructions or statements in a form acceptable to a computer, designed to cause the computer to execute an operation or operations necessary to process requirements such as payroll, inventory control, or automatic test and engineering analysis. Application software may be either machine-dependent or machine-independent, and may be general-purpose in nature or be designed to satisfy the requirements of a specialized process or a particular user.

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[1] The acquisition of Joint Committee on Printing (JCP) controlled equipment in FSC Group 70 dedicated to printing processes and utilizing computer technology, including electronic printing systems, integrated printing systems, and photocomposition equipment, continues to be subject to the provisions of title 44, U.S. Code, and the JCP Government Printing and Binding Regulations as well as to this regulation.

(d) "Computer data base" means a stored collection of data in a form capable of being processed and operated on or by a computer; i.e., the elements of stored data used by a computer in responding to a computer program.

(e) "Computer software documentation" means recorded information including computer listings and printouts that (1) documents the design or details of computer software, (2) explains the capabilities of the software, (3) provides data for testing the software, or (4) provides operating instructions.

(f) "Software conversion" means the transformation, without functional change, of computer programs or data elements to permit their use on a replacement or changed ADP equipment system or teleprocessing service.

(g) "Software redesign" means any change to software that involves a change in the functional specifications for that software.

(h) "Reprogramming" means any change to software that deviates from the design specifications for that software but preserves the functional requirements of the user.

(i) "Recoding" means a manual change to software on a line-for-line basis that preserves both the functional requirements and software design specifications.

(j) "Automated translation" means changes to software including machine-processed recoding that preserve both the functional requirements and software design specifications to the extent that no changes are apparent to the user.

§ 101-35.202-3 Firmware.

"Firmware" means any ADP hardware-oriented programming at the basic logic level of the computer that is used for machine control, error recovery, mathematical functions, applications programs, engineering analysis programs, and the like. Included are firmware that is furnished with ADPE, commercially available proprietary firmware that is acquired separately from ADPE, and all vendor documentation and manuals relating thereto.

§ 101-35.202-4 Maintenance services.

"Maintenance services" means those examination, testing, repair, or part replacement functions performed to: (a) Reduce the probability of ADPE malfunction (commonly referred to as "preventive maintenance"), (b) restore to its proper operating status a component of ADPE that is not functioning properly (commonly referred to as "remedial maintenance"), or (c) modify the ADPE in a minor way (commonly referred to as "field engineering change" or "field modification").

§ 101-35.202-5 Related supplies.

"Related supplies" means consumable items designed specifically for use with ADPE, such as computer tape, ribbons, punchcards, and tabulating paper.

§ 101-35.202-6 ADP services.

"ADP services" means the computation or manipulation of data in support of administrative, financial, communicative, scientific, or other similar Federal agency data processing applications. It includes teleprocessing (including remote batch) and local batch processing.

§ 101-35.202-7 ADP related services.

"ADP related services" means source data entry, conversion, training, studies, facilities management, systems analysis and design, programming, and equipment operation that are adjunct and essential to agency ADP activities but do not involve the actual computation or manipulation of data.

§ 101-35.202-8 Commercial ADP services.

"Commercial ADP services" means the performance of ADP services and ADP related services by private contractors on a nonpersonal services basis. For the purposes of this Subpart 101-35.2, commercial ADP services do not include: (a) Services performed by contractors under contracts where the subject matter of the contract is not the furnishing of ADP services or ADP related services to a Federal agency, (b) employment of experts and consultants pursuant to 5 U.S.C. 3109, or (c), "personal services" contracting where the contractor or the contractor employees are in effect employees of the Government.

§ 101-35.202-9 Federal agency.

"Federal agency" means (a) any executive agency (executive department or independent establishment in the executive branch including any wholly owned Government corporation) or (b) any establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, and the Architect of the Capitol and any activities under the Architect's direction) (see 40 U.S.C. 472).

§ 101-35.203 Policies.

§ 101-35.203-1 Competition.

Full and open competition is a basic procurement objective of the Government. The maximum practicable competition among offerors who are capable of meeting the user's needs will ensure that the Government's ADP needs are satisfied at the lowest overall cost, price and other factors considered, over the system/item life. This extends to actions necessary to foster competitive conditions for subsequent procurements. To meet fully the lowest overall cost objective, it is essential that proper management and planning actions be accomplished before the acquisition becomes imminent (see § 101-35.206).

§ 101-35.203-2 Responsibilities.

Agency ADP managers and contracting officers share the responsibility for ensuring that the basic procurement objective is met (see § 101-35.203-1). This responsibility extends to fostering competitive conditions for subsequent procurements.

§ 101-35.203-3 ADP plans.

Agency ADP management officials are responsible for monitoring data processing requirements and for developing plans to meet future needs at the lowest overall cost. Plans should include initial acquisitions and augmentation or replacement of installed ADPE and software (see § 101-35.204).

§ 101-35.203-4 Requirements analysis.

The acquisition of an initial ADP capability or the augmentation or replacement of an existing capability shall be preceded by a comprehensive requirements analysis commensurate with the scope and complexity of the program objectives and mission needs. The operational and economic feasibility of all alternative solutions, including use of non-ADP resources, sharing, use of commercial ADP services, and reutilization of excess Government-owned or -leased equipment shall be considered (see § 101-35.207).

§ 101-35.203-5 Urgent requirements.

The existence of a public exigency; i.e., the Government will suffer serious injury, financial or otherwise, if the equipment or services are not available by a specific date, shall not relieve the agency from the responsibility for obtaining maximum practicable competition (see FPR §§ 1-3.202 (or, if applicable, DAR 3-202) and 1-4.1102-9)).

§ 101-35.203-6 Conversion management and planning.

Agency ADP managers shall take those steps as may be feasible to minimize the risk and cost of conversion to replacement ADP systems and services (see § 101-35.206) to achieve economy and efficiency in meeting agency needs.

§ 101-35.203-7 Sharing and reutilization.

Sharing installed ADPE and software or using available excess Government-owned or -leased ADPE shall be the primary source for meeting the ADP requirements of the user (see Subparts 101-36.2 and 101-36.3). Additional ADP capacity shall be acquired only if existing resources will not economically and efficiently meet the requirements.

§ 101-35.203-8 Privacy and security.

ADP managers shall establish safeguards necessary for the adequate protection of personal privacy and the physical security of an ADP installation (see Subparts 101-35.3 and 101-35.17).

§ 101-35.203-9 Standards.

Federal information processing standards publications (FIPS PUBS) and Federal telecommunications standards (FED-STD) shall be implemented when applicable. Procedures for waiver or exception shall be complied with for each applicable mandatory FIPS PUB or FED-STD that is not implemented (see Subpart 101-36.13).

§ 101-35.203-10 Furnishing ADP items and services to contractors.

(a) When the very subject matter of a contract is for something other than the procurement of ADP items or services and commercially available ADPE is incorporated into the non-ADP system or commercial ADP services are used in contract performance, the acquisition and management of the non-ADP system shall be in accordance with other applicable regulations, rather than this subpart (see § 101-35.201(b)(2)).

(b) To facilitate the reutilization of ADPE, the Government contractor shall be required to identify the quantity and specific make and model of the ADPE that is delivered as a part of the non-ADP system. Nevertheless, agencies shall sever requirements for general purpose commercially available ADP items or services from the overall requirement, acquire them in accordance with these regulations, and provide them as Government-furnished property or services to the contractor when it is operationally feasible to do so and this action will promote economy, efficiency, and maximum practicable competition.

(c) In those instances when ADP items or services are severed pursuant to this subpart and procured by the Government, care must be taken to ensure that the prime contractor's ability and responsibility to perform in accordance with the contract provisions are not disturbed.

§ 101-35.204 Planning requirements.

(a) Agencies are required to prepare and submit annual agency-wide ADP plans in accordance with OMB Circular A-11. A copy of this plan shall be provided to GSA (CPS) concurrently with each submission to OMB. The following supplemental information shall be submitted to GSA (CPS) with this plan:

(1) Trends in data processing workloads that will or may saturate existing ADP system capabilities prior to expiration of the full established initial user's system/item(s) life.

(2) Opportunities to take advantage of cost effective enhancements brought about by new ADPE technology, software improvements, and changes in the marketplace.

(3) Actions planned regarding system redesign to improve the efficiency and effectiveness of application software, the conversion of software to higher level languages, and the audit and update of documentation for consistency with the guidelines issued by the National Bureau of Standards.

(4) Approximate acquisition schedule.

(5) The proposed acquisition strategy for meeting projected ADP resource needs identified in the ADP plans submitted pursuant to OMB Circular A-11.

(b) Information in the plan will be used by GSA in compiling estimated Government-wide requirements and developing acquisition programs to assist agencies in meeting their needs in an efficient and economic manner.

§ 101-35.205 Specifications and purchase descriptions.

Specifications and purchase descriptions describing Government requirements shall be designed to promote competition to the maximum practicable extent from manufacturers, leasing companies, third-party vendors, and ADP services contractors. Functional specifications maximize competition and are the preferred method for expressing the user's requirements (see FPR §§ 1-4.1102-12 and 1-4.1109-10). Functional specifications may be augmented with equipment characteristics and performance criteria as necessary to accurately reflect the user's needs (see FPR § 1-4.1109-11). If functional specifications cannot be used, other types of specifications or purchase descriptions shall be used in the following order of precedence:

(a) Equipment performance specifications (see FPR § 1-4.1102-13);

(b) Software and equipment plug-to-plug compatible functionally equivalent purchase descriptions;

(c) Brand name or equal purchase descriptions (see FPR §§ 1-1.307-4 and 1-1.307-5 (or, if applicable, DAR 1-1206.2)); or

(d) Specific make and model purchase descriptions. (Use of specific make and model purchase descriptions must be justified—see FPR §§ 1-4.1102-8 and 1-4.1109-11(d).)

[46 FR 1213, Jan. 5, 1981; 46 FR 16102, Mar. 11, 1981]

§ 101-35.206 Conversion management and planning.

Conversion from one computer architecture and operating system software to another is a recurring and costly activity. Frequently, moving a particular ADP system workload to a noncompatible ADP system is so costly as to be a major impediment to effective competition by the noncompatible offeror. However, proper management of an agency's software inventory and planning for future conversions will reduce the risk and cost of conversion, enhance competition, and improve the efficiency of ADP operations.

§ 101-35.206-1 Procurement and management responsibilities.

(a) Federal ADP managers and contracting officers share the responsibility for assuring that data processing requirements are met at the lowest overall cost, price and other factors considered. This responsibility extends to those actions necessary to foster competition for subsequent procurements. To achieve this objective, ADP managers shall take necessary action to minimize the cost of conversion to future replacement ADP systems. Although the configuration and date of acquisition of the replacement system may not be known, several steps can and should be taken to reduce both the risk and cost of conversion.

(b) The following are examples of management and planning actions that ADP managers should take to facilitate future conversions.

(1) Purge from the active inventory all software and data bases not essential to meet agency needs.

(2) Identify relevant characteristics of all application software; e.g., programming language, number of source statements or lines of code, type, and size of records and data files, and security provisions.

(3) Use only software design and documentation techniques that minimize future software conversion to develop new application software.

(4) Use Federal standard or other ANSI standard high order languages to the maximum practicable extent in developing all new user application software. Document agency files with the justification for using nonstandard languages at the time the waiver is granted.

(5) Avoid the use, where possible, of implementor-defined features and vendor-supplied nonstandard extensions in high order languages compilers. Where it is necessary to use these features and nonstandard extensions, document agency files to support their use and retain the documentation to manage the software during its system life.

(6) Use to the maximum practicable extent data base management systems (DBMS) supported by and that will run on equipment offered by multiple manufacturers of different product lines of ADPE; i.e., other than plug-to-plug compatible equipment or designed to conform to the Conference on Data Systems Languages (CODASYL) specifications. Where it is not possible to use such a DBMS, document agency files to support this decision and retain the documentation to manage the DBMS during its system life.

(7) Write application software requiring software redesign in Federal standard or other ANSI standard high order languages unless the use of assembly or other languages is clearly justified on the basis of operational requirements or demonstrable economy and efficiency. Document agency files with the justification for using nonstandard languages at the time the waiver is granted and retain the documentation to manage the application software during its system life.

(8) Rewrite application software written in assembly or other nonstandard languages but not requiring redesign in Federal standard or other ANSI standard high order languages to foster competition for subsequent procurements to the maximum practicable extent.

(9) Review, revise, and update as necessary documentation for all existing applications to reduce the risk and cost of future conversions.

(10) Evaluate all feasible alternative courses of action for meeting agency data processing needs before ADPE is acquired on either a sole source, specific make and model, or compatible basis since these types of purchase descriptions limit the competitiveness of the procurement.

(c) The useful life of application software is limited by changes in data processing requirements, operating system software, and equipment technology. Generally, the life expectancy of this software, without redesign or reprogramming, is in the range of 5 to 10 years. Accordingly, the updating of application software for these reasons must be reckoned with, regardless of whether these programs are converted from one ADP system architecture to another. These technology updating activities should be identified and managed separately from conversion activities.

[46 FR 1213, Jan. 5, 1981; 46 FR 16102, Mar. 11, 1981]

§ 101-35.206-2 Software conversion responsibilities.

Those specific agency actions taken to reduce the risk and cost of conversion to proposed replacements of ADP systems (equipment or services) shall be described in software conversion studies submitted with agency procurement requests (see FPR §§ 1-4.1109-13 and 1-4.1109-14).

§ 101-35.207 Determination of need and requirements analysis.

The acquisition of new or additional ADP capabilities shall be based on mission needs that flow from program requirements. These needs may be expressed in the form of deficiencies in existing capabilities, new or changed program requirements, or opportunities for increased economy and efficiency. In any event, the needs shall be supported by a comprehensive requirements analysis commensurate with the size and complexity of the need. The agency shall consider the following critical factors, as a minimum, in the requirements analysis:

(a) The probable improvement in operational efficiency in meeting program mission needs and the anticipated economies that will be realized.

(b) The present and projected workload over the system life in terms[2] of:

(1) Data entry and associated communications support;

(2) Data base(s) and data base management;

(3) Data handling or transaction processing by type and volume;

(4) Output needs and associated communications support;

(5) Expandability requirements; and

(6) Privacy and security safeguards.

(c) The ADP functions that must be performed to meet the mission need and the cost/benefits that will accrue as a result of this performance.

(d) The actions that have been or could be taken to increase the capability and productivity of the existing system, where applicable.

(e) The agency components involved, their physical location, operational constraints, and the relative priority of the specific requirement within the spectrum of total mission needs.

(f) Space management considerations; e.g., heat dissipation, air flow, temperature range, relative humidity, energy conservation, including coordination with building managers and GSA (see FPMR § 101-17.101-5).

(g) The feasibility of sharing, use of excess Government-owned or -leased ADPE, the off-loading of lower priority applications, the use of Federal data processing centers and GSA sources of supply, or the use of commercial ADP services.

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[2] When the need can be satisfied by augmenting the installed ADPE system, the requirements analysis should consider the factors in this paragraph (b) of § 101-35.207, where applicable.

§ 101-35.207-1 Severable ADP requirements.

(a) When the very subject matter of a contract is for something other than the procurement of commercially available ADP items or services but some of these items or services are to be delivered under the contract, the acquisition of the ADP items or services by the Government contractor is not subject to this subpart (see § 101-35.201). However, to ensure maximum practicable competition, ADP items or services shall be severed from the overall requirement when it is operationally feasible to do so and the action will promote economy and efficiency. To meet these basic objectives, agencies shall sever the requirement for general purpose commercially available ADPE and ADP services when it is operationally feasible to do so and this action will promote economy, efficiency, and maximum practicable competition (see § 101-35.203-10). Severable action shall be considered by an agency when:

(1) The ADPE or ADP service requirement is or can be identified as a separate line item;

(2) The value of the ADP portion exceeds $500,000;

(3) The items can be procured by the Government and delivered to the contractor as required by the production schedule;

(4) Adequate price competition can be achieved on the severed ADP portion (see FPR § 1-3.807-1(b)(1));

(5) The expected cost reduction will exceed the added costs of acquisition; and

(6) Providing the ADPE and/or ADP services will not affect the contractor's ability and responsibility to perform as required by the provisions of the contract.

(b) The decision to sever ADP requirements shall be made before soliciting offers. A Government-furnished property clause shall be included in the solicitation document for the non-ADP items or services solicitation when the ADP items or services are severed.

§ 101-35.208 Determination of system/item life.

(a) The Government system/item life shall be established by the initial acquiring agency as a part of each requirements analysis. This life shall be used in the evaluation to determine the lowest overall cost offer and whether purchase, lease to ownership, lease with option to purchase, or straight lease is the lowest cost method of acquisition for the Government. The following factors shall be considered in determining the Government system/item life:

(1) The period of time the system/item(s), plus any planned augmentation, will satisfy the needs of the initial user.[3]

(2) The rate at which technology is expected to advance.

(3) The probability that support will continue to be available beyond the period of intended use by the initial user. This support includes items such as maintenance, spare parts, software support, etc.

(4) The probability that the system/item(s) in its ultimate planned configuration will be reused by another component within the agency or another Federal agency once the equipment will no longer meet the needs of the initial user. The estimated number of months, if any, of contemplated use by a secondary user will be added to the initial user's requirement to determine the Government system/item life.

(b) If the acquiring agency cannot predict reuse, either within that agency or by another Federal agency, the initial user's system/item life shall be the Government system/item life.

§ 101-35.209 Comparative cost analysis.

A comparative cost analysis shall be performed for each requirement to determine which alternative will meet the user's needs at the lowest overall cost over the system/item life. The alternatives to be considered shall include but are not limited to the following:

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[3] If augmentations other than those provided for in the initial acquisition are necessary, consideration should be given to establishing a new system/item(s) life.

(a) Use of non-ADP resources to satisfy the requirement.

(b) Use of existing ADP facilities (e.g., Federal data processing centers) and resources on a shared basis.

(c) Use of commercial ADP services.

(d) Redesign of application programs, using Federal or ANSI standard language to the maximum practicable extent.

(e) Revision of production schedule or job stream to improve throughput capability.

(f) Addition or change in working shifts to increase capacity.

(g) Augmentation of installed ADPE by adding additional components to increase data processing capacity.

(h) Upgrading selected system components, such as adding additional selector channels, memory, faster tape or disk units, etc., in order to improve throughput capability.

(i) Replacing installed ADP system with a compatible system that will handle the workload.

(j) Competitive replacement of the installed ADP system through use of functional specifications.

§ 101-35.210 Evaluation of acquisition alternatives.

(a) Comparative cost analysis shall be made to determine the method of acquisition that represents the lowest overall cost over the system/item(s) life. The alternatives that must be considered will vary, depending on the system/item being acquired and the requirement of the initial user. However, as a minimum, all of the alternatives set forth below, which will meet the user's needs, shall be considered.

(1) Alternative methods of acquisition for ADPE.

(i) Purchase.

(ii) Lease to ownership.[4]

(iii) Lease with option to purchase.

(iv) Straight lease.

(2) Alternative methods of acquisition for proprietary software.

(i) Perpetual license to use.

(ii) License to use for extended term (i.e., more than 12 months).

(iii) License to use on a monthly basis.

(3) Alternative methods of acquisition for ADPE maintenance services.

(i) On-site maintenance capability.

(ii) On-call maintenance.

(iii) Time and materials.

(4) Commercial ADP services.

(i) Short-term resources used.

(ii) Extended system life, resources used or dedicated.

(b) The present value of money factor, as set forth in OMB Circular A-94, shall be included in comparative cost analyses. The single discount rate (currently 10 percent) specified in the OMB Circular represents the approximate longrun opportunity cost of capital in the private sector. Under this methodology, payments over time are adjusted to reflect the present value of these payments as of the date of contract award. All expenses over the system/item(s) life for equipment, software, maintenance, other support, and predetermined in-house expenses for installation and operation must be adjusted.

§ 101-35.211 Least cost acquisition.

(a) The method of acquisition that represents the lowest overall system/item(s) life cost to the Government, price and other factors considered, shall be selected, subject to availability of funds. If a purchase, long-term lease, or licensing arrangement is the lowest overall cost alternative and the proper type of funds (e.g., purchase money) are not available, GSA (ADTS) shall be contacted to determine if the ADP Fund can be used for the acquisition (see GSA Bulletin FPMR F-106, Subject: Use of ADP Fund for equipment purchase).

(b) In some cases, lease may be the lowest overall cost alternative based on the system/item(s) life to the initial user; whereas, purchase or a lease to ownership plan may be the lowest overall cost based on the Government system/item(s) life. When this condition exists, ADTS shall be contacted to determine if the ADP Fund can be used to make the purchase. Equipment purchased by the ADP Fund under these conditions will be leased back to the using agency at a price not to exceed the vendor's lease cost over the initial user's system/item(s) life. ADPE retained by the using agency beyond the originally established system/item(s) life shall be subject to a new ADP Fund leasing agreement.

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[4] Funding statutes may preclude acceptance of some lease to ownership plans.

(c) In those cases where purchase funds are not available but purchase is in the best interest of the Government, the method of acquisition which is most advantageous to the Government and for which funds are available shall be selected.

§ 101-35.212 Assistance by GSA.

Assistance in any phase of the management process covered by this Subpart 101-35.2 may be obtained by contacting the General Services Administration (CPS), Washington, DC 20405.

Subpart 101-35.3—Security of Federal ADP and Telecommunication Systems

Source: 45 FR 53150, Aug. 11, 1980, unless otherwise noted.

§ 101-35.300 Scope of subpart.

This subpart provides Government-wide security management guidance for the protection of ADP and telecommunication systems and facilities. Other subparts of the FPMR cover specific aspects of security. (See Subparts 101-35.17 for Privacy Act application and 101-36.7 for environment and physical security considerations.)

§ 101-35.301 Policy.

Federal agencies shall ensure that an adequate level of security is provided for all ADP and telecommunication systems and services, including those provided by contractors. An adequate security program shall be established to ensure automated information system integrity; i.e., a security program that (a) ensures that under all conditions sensitive data is safeguarded from disclosure and protected from unauthorized modification and destruction, (b) provides for operational reliability of the ADP and telecommunication systems, and (c) provides asset integrity for prevention of loss from natural hazards, fire, etc.

§ 101-35.302 Definitions.

(a) "Sensitive application systems" means those ADP and telecommunication systems that require a degree of protection. The protection is required because these systems process sensitive data; or the risk of loss or harm that could result from data disclosure, modification, or destruction is substantial; or the improper operation of the software or equipment related to the application system would have a serious effect on the ability of the agency to function. Examples of sensitive application systems are: (1) Automated systems with little or no human intervention; e.g., check issuing systems; (2) systems that process privileged information; e.g., proprietary data and economic forecasting; (3) systems that process personal information subject to the Privacy Act of 1974; and (4) systems where the loss or harm would be such that the organization could not effectively perform its mission and would have a substantial adverse effect on the Nation.

(b) "Sensitive data" means data that require a degree of protection due to the risk and magnitude of loss or harm which could result from inadvertent or deliberate disclosure, alteration, or destruction of the data.

(c) "Security specifications" means a detailed description of the safeguards required to protect a sensitive computer application or telecommunication system.

(d) "ADP system security" means the degree of protection of ADP equipment and data that is established through the application of technological safeguards, physical security measures, and administrative procedures applied to a sensitive application system, its component facilities and equipment, its software, its data to ensure protection of a computer system, and its telecommunications.

(e) "Physical security" means the sum of construction features and the use of locks, guards, badges, and similar measures to control access to a facility (location) as well as the measures required to protect personnel and property, including the structures housing the computer, their contents, and related equipment, from but not limited to damage by accident, fire, loss of utilities, environmental hazards, and unauthorized access.

(f) "Agency controls" means those administrative and personnel measures used in conjunction with ADP administrative, technical, and physical security measures to achieve adequate comprehensive security.

§ 101-35.303 Agency security responsibilities.

Each agency head shall establish an agency security program that clearly delineates the responsibility for security agencywide. The agency head shall establish policies and procedures and assign responsibility for development, implementation, and operation of the agency's ADP and telecommunication security program. This responsibility applies to work performed internally or by contract.

(a) *Personnel.* The agency security program shall include policies and procedures for the screening and clearance of all persons involved in the design, operation, or maintenance of ADP or telecommunication systems. The level of screening required will vary from minimal checks to full background investigations commensurate with the sensitivity of the data handled and the risk and magnitude of loss or harm that could be caused by the individual. Policies shall be consistent with the policies issued by the Office of Personnel Management. (See Federal Personnel Manual, FPM 732-4.01.)

(b) *Facility security officer.* Each ADP/telecommunication system location shall have a designated security person responsible for the implementation, operation, and testing of the agency security program for that installation, including the adequacy of the security training of personnel involved.

(c) *Security evaluations.* The agency security program shall include procedures for conducting periodic (at least once every 3 years) audits or evaluations of the adequacy of the security safeguards of each sensitive application. Audits or evaluations shall be conducted on applications which process personal, proprietary, or other sensitive data, or which have a high potential for financial loss, such as automated decisionmaking application. They shall be conducted by persons independent of the facility users and facility management.

§ 101-35.304 Security program elements.

The agency computer security program shall contain all of the elements necessary to ensure an adequate level of security for all agency data whether processed by the agency, by other Government agencies, or commercially. The program shall be consistent with all Federal policies, procedures, and standards issued by OMB, GSA, the Department of Commerce, and the Office of Personnel Management. Where national security systems are involved, the policies issued by the National Security Agency shall apply.

§ 101-35.304-1 Identification of sensitive systems and facilities.

A review of ADP and telecommunication facilities and systems is necessary to identify sensitive applications. The risks (threats and hazards) shall be identified for each facility to determine the level of security required.

§ 101-35.304-2 Risk analysis.

(a) A risk analysis shall be performed for each ADP and telecommunications facility to provide a measure of the relative vulnerabilities. The analysis shall be performed before the approval of design specifications for new computer installations or whenever there is a significant change to the physical facility or to the hardware or software. The analysis shall be reviewed and updated when changes concerning the degree of protection occur or at least every 3 years. This risk analysis should provide an understanding of the probable loss and establish how the loss will affect the system; for example, what is the probability of loss of a tape or micro film library and what is the economic or other consequence of that loss? Expected losses should be estimated in dollars or other meaningful indicators such as delayed processing or loss of data. A copy of each risk analysis shall be maintained for evaluation and audit purposes. These should be protected to the maximum within the limits of the law. These risk analyses form the basis for preparation of the security specifications and for determining the type and scope of security measures required at each location.

(b) The analyses should include but not necessarily be limited to the following factors:

(1) Physical destruction or loss of data and program files;

(2) Impact loss, destruction, or alteration of data on systems or programs;

(3) Theft or disclosure of information;

(4) Misuse of ADP systems (fraud, vandalism, etc.);

(5) Delay or prevention of ADP operation; and

(6) Reliability of ADPE and utilities.

(c) An annual loss expectancy for each facility shall be developed from a matrix of threats and frequency of losses as a result of the analysis. The NBS publication FIPS PUB 65, Guideline for Automatic Data Processing Risk Analysis, provides guidance on risk analysis.

§ 101-35.304-3 Administrative, physical, and technical controls.

Administrative, physical, and technical controls shall be developed to ensure attainment of security objectives. These controls encompass a continuous program of systems and application security. They should be compatible with other practices; e.g., cost accounting and management oversight. Included are:

(a) Organizational controls; e.g., those that have the potential to reduce damage or loss to the agency through concentration or distribution of functions;

(b) Media and logistic controls; e.g., those used in ADP operations to protect data during physical handling; and

(c) Accountability controls; e.g., those that identify specific individuals at any time an action is taken that may have an effect on the data, application, or physical installation.

§ 101-35.304-4 Privacy considerations.

Subpart 101-35.17, Privacy and Data Security for ADP and Telecommunication Systems, contains ADP system security considerations to assist in the implementation of the Privacy Act of 1974 (5 U.S.C. 552a). See Department of Commerce publication FIPS PUB 41 for further guidance.

§ 101-35.305 Security program.

The security program requires continuing day-to-day attention. The following program objectives need to be considered:

(a) *Reduction of sensitive facilities.* All locations need to be designed to safeguard the equipment and data against varying degrees of projected threats and hazards. Although all facilities must provide protection under varying circumstances, it may be prudent to move a sensitive data application to a system that provides adequate protection rather than spend enormous sums to upgrade security.

(b) *Improvement of security at existing facilities.* Security may be improved at existing facilities by either upgrading the physical security at the facility and/or by strengthening the administrative security practices. Strengthening administrative security, by applying sound management practices, can often be effective in minimizing losses and limiting alteration costs. Actions such as closing and locking doors, maintaining logs, verifying signatures, inspecting fire equipment, replacing air filters, and verifying emergency procedures are important continuing considerations. Security must be a daily concern that is given priority attention.

(c) *Contingency plans.* Plans should be developed to provide continuity of data processing support should normal operations be interrupted. Alternate facilities are essential for systems that process sensitive data applications. The alternate facility should have sufficient capacity to run its own sensitive data applications plus the sensitive application(s) from the downed system. The backup capability may reside in one or more systems or facilities but should be located so that operating personnel, programs, data, paper, forms, etc., can be made available on short notice. Agreements for use of the backup (alternate) facility should be made in advance so that sensitive data applications are operated with minimum interruption. Plans should be reviewed and tested at periodic intervals.

§ 101-35.306 Security specifications.

(a) The agency security program shall include a managemenmt control process to develop security specifications for new sensitive applications or modifications of sensitive applications. The development of a security specification consists of the identification of the sensitive application, a list of potential threats and hazards, and a description of the measures needed to protect the application.

(b) The security program should include procedures that ensure that security specifications are developed to meet the requirements of those responsible for the security of the various application systems.

(c) The security program must include procedures requiring the certification of each system after completion of the system acceptance tests and before operational use of that system. This action certifies that the system meets the documented and approved system security specifications, that the results of the system tests demonstrate adequacy of application security provisions, and that all applicable Federal policies, regulations, and standards are met.

(d) The security program shall establish requirements and responsibilities for the design, system test, certification of system test, and certification of security specifications.

§ 101-35.307 Certification of conformance to security specifications.

(a) New or modified sensitive application systems shall be certified in accordance with agency procedures to ensure conformance with the security specifications before operation. Contractor- or other-agency-operated systems or services shall also be certified.

(b) The security of existing sensitive systems shall be modified as appropriate to the level of security as specified in the agency security program for new or revised systems.

NOTE: The agency security program shall establish policies, criteria, and timetables for periodic recertification of all sensitive application systems, including those operated at contractor locations. The recertification timetable shall be based on the sensitivity of the information processed and risk involved, but shall be conducted at least every 3 years.

§ 101-35.308 Security audit or evaluation.

(a) Agencies shall establish a program for conducting periodic audits or evaluations for evaluating and recertifying the adequacy of the security safeguards of each operational sensitive application.

(b) Audits shall be conducted by personnel other than those responsible for the operation and development of the sensitive application systems.

(c) The audit or evaluation function shall include an examination of the data sensitivity; a verification and validation of the adequacy of physical, administrative, financial, and technical controls; and the adequacy of security administration. Time intervals for audits or evaluations will be determined by the agency, based on the sensitivity of the operation but at least every 3 years. All ADP and telecommunication facilities shall be included in this audit and evaluation.

Subparts 101-35.4—101-35.16 [Reserved]

Subpart 101-35.17—Privacy and Data Security for ADP and Telecommunications Systems

SOURCE: 41 FR 14732, Apr. 7, 1976, unless otherwise noted. Redesignated at 43 FR 27191, June 23, 1978.

§ 101-35.1700 Scope of subpart.

The Privacy Act of 1974 (5 U.S.C. 552a) (Act) sets forth certain safeguards to protect personal privacy by requiring agencies to abide by the provisions of the Act. Keeping only an essential minimum of records is the most effective protection against further incursions into personal privacy and is a major goal of this Act. This subpart applies to interagency, intraagency, and commercial ADP service arrangements. This subpart informs the agencies of rules and procedures concerning ADP and telecommunications to be followed by agencies in making use of, or providing, interagency ADP services involving or potentially involving a system of records, as defined by the Act. This subpart also sets forth the procedures to be followed by agencies in preparing solicitation documents and certifications for procuring ADP and telecommunications equipment, software, maintenance, and services which involve or are planned to involve a system of records, as defined by the Act.

[42 FR 17120, Mar. 31, 1977. Redesignated at 43 FR 27191, June 23, 1978]

NOTE: Agencies shall also comply with § 1-1.327, Protection of the privacy of individuals, when procuring ADP equipment, software, maintenance, or services and/or telecommunications equipment, maintenance, or services.

§ 101-35.1701 Applicability.

The provisions of this subpart apply only to agencies as defined in § 101-35.1702.

§ 101-35.1702 Definitions.

Terms used in this subpart are defined as follows:

(a) "Agency" as defined in section 551(1) of title 5, United States Code, includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency.

(b) "Individual" means a citizen of the United States or an alien lawfully admitted for permanent residence.

(c) "Maintain" includes maintain, collect, use or disseminate.

(d) "Record" means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.

(e) "System of records" means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

(f) "Threats and hazards" means any man-made or natural event, the occurrence of which may result in the loss, alteration, or unauthorized access to data.

(g) "Safeguards" means those procedures, methods, and devices which have as their specific function the prevention of threats and hazards or the mitigation of their effects.

(h) "Rules of conduct" means those administrative procedures, methods of work, and standards of conduct which together define the manner in which persons involved in the design, development, operation, or maintenance of systems of records will design, maintain, collect, use, or disseminate such records.

(i) "Government contractor" means any individual or other entity who contracts to operate by or on behalf of an agency a system of records to accomplish an agency function.

§ 101-35.1703 Security and privacy requirements.

(a) The Privacy Act of 1974 requires that each agency that maintains a system of records shall:

(1) Maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or by Executive order of the President (5 U.S.C. 552a(e)(1)). Thus, protection of privacy is promoted by limiting the amount of information maintained.

(2) Establish rules of conduct for persons involved in the design, development, operation, or maintenance of any system of records or in maintaining any record, and instruct each such person with respect to those rules and the requirements of this section, including rules and procedures adopted pursuant to this section and the penalties for noncompliance (5 U.S.C. 552a(e)(9)).

(3) Establish appropriate administrative, technical, and physical safeguards to ensure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity

which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained (5 U.S.C. 552a(e)(10)). It should be noted that the development of appropriate safeguards will necessarily be tailored to the requirements of the system of records being maintained. In addition, the need to provide safeguards may be influenced by other considerations such as ensuring continuity of agency operations, protecting proprietary data, protecting national security information, and ensuring accuracy and reliability of information.

(b) Guidelines and a definition of responsibilities for implementing the Act are described in the Office of Management and Budget (OMB) Circular No. A-108, dated July 1, 1975, and supplements thereto.

§ 101-35.1704 Interagency services.

Special considerations and responsibilities apply in those instances in which one agency (the user agency) makes use of services or equipment provided, operated, managed, or administered by another (the provider agency) in the course of maintaining or operating systems of records. These instances include services obtained through the ADP Sharing Program (41 CFR 101-36.2), and the Federal Data Processing Centers (FDPC) (41 CFR 101-36.8). User agency and provider agency responsibilities are set forth below.

§ 101-35.1704-1 User agency responsibilities.

A user agency shall:

(a) Make all reports and notices required under OMB Circular No. A-108 and supplements thereto;

(b) Determine its data confidentiality and security requirements before storing, processing, or transmitting systems of records at a provider agency's facility;

(c) Include in its screening of ADP and telecommunications services and/or equipment resources an examination of the ability of each (provider agency) resource to meet its data confidentiality and security requirements. (Specifically, the adequacy of available technical, administrative, and physical safeguards to counter anticipated threats and hazards must be evaluated);

(d) Satisfy itself that the rules of conduct governing the activities of personnel of the provider agency are commensurate with its data confidentiality and security requirements;

(e) Obtain services from only those provider agencies that fully meet the user agency's data confidentiality and security requirements;

(f) Recognize that the records it transmits, stores, or processes at the facility of a provider agency will be considered to be maintained by the user agency; and

(g) Establish written rules governing the disclosure by a provider agency of records considered to be maintained by the user agency.

§ 101-35.1704-2 Provider agency responsibilities.

A provider agency shall:

(a) As specified in § 101-35.1703(a), develop rules of conduct for personnel involved in design, development, operation, or maintenance of equipment, systems, or services used to store, process, or transmit systems of records;

(b) In accordance with § 101-35.1703(a), undertake a continuing program of review of its operations to ensure that threats and hazards to data confidentiality and security are properly identified and that appropriate safeguards are implemented;

(c) Make available rules of conduct and information on safeguards to user agencies;

(d) Refrain from disclosing any records stored, processed, or transmitted for a user agency except to that agency or under written rules established and provided by that user agency; and

(e) Make known to user agencies changes in its perception of threats and hazards to data confidentiality and security or any changes in the safeguards implemented to protect against those threats and hazards. User agencies may use information on such changes to reevaluate their usage of the provider agency's services or equipment.

§ 101-35.1705 Contractors' responsibilities.

Subsequent to the effective date of the Act (September 27, 1975), all persons, including contractors, who are involved in the design, development, operation, or maintenance of any system of records, or the maintenance of any record, are subject to the applicable provisions of the Act, including the agency rules of conduct. In addition, pursuant to 5 U.S.C. 552a(m), Government contractors, as defined in § 101-35.1702(i), and their employees are also subject to the criminal sanctions of 5 U.S.C. 552a(i).

§ 101-35.1706 Agency documentation responsibilities.

(a) Agencies authorized to procure ADP equipment, software, maintenance, or services in accordance with Part 101-36 or to procure telecommunications equipment or services in accordance with Part 101-37 shall include in the solicitation documents the following information when a system of records as defined by the Privacy Act of 1974 is involved or planned to be involved:

(1) Agency rules of conduct which a contractor and his employees shall be required to follow;

(2) A list of the anticipated threats and hazards which are relevant to the systems of records and which the contractor must safeguard against;

(3) A description of the safeguards which the agency specifically requires the contractor to provide; and

(4) If applicable, a notice that under 5 U.S.C. 552a(m) Government contractors and any employees of such contractors, as defined in § 101-35.1702(i), are subject to the criminal penalties of 5 U.S.C. 552a(i).

(b) Agencies shall also:

(1) Evaluate vendor proposals to determine the adequacy of the safeguards proposed in meeting the anticipated threats or hazards to the security and integrity of records;

(2) Verify that any safeguards proposed by an offeror before award of a contract are in use and effective before commencing work under the contract;

(3) Identify in the specification and contract the test methods, procedures, and criteria to be used to verify that all safeguards have in fact been provided;

(4) Verify that any safeguards provided as a result of work done under the contract are effective;

(5) Provide in the system specifications and the contract an inspection program that will ensure continuous, efficacious, and efficient safeguards, and provide for the discovery and the countering of any new threats or hazards.

A sample clause that could be used for this purpose follows:

ACCESS TO CONTRACTOR FACILITIES AND RECORDS—PRIVACY SAFEGUARDS INSPECTION

The Government shall, following presentation of advance written notice of —— days, be afforded full, free, and uninhibited access to all facilities and installations and to all technical capabilities and operations and to all documentation, records, and data bases for the purpose of carrying out a program of inspection to ensure continued efficacy and efficiency of safeguards against threats and hazards to data security, integrity, and confidentiality.

In the event that new or unanticipated threats or hazards are discovered by either the Government or the contractor or that existing safeguards have ceased to function, the discoverer shall immediately bring the situation to the attention of the other party. Mutual agreement shall then be reached on changes or corrections to existing safeguards or institution of new safeguards, with final determination of appropriateness being made by the Government. The cost of such changes or corrections shall be a matter of negotiation. The Government's liability is limited to an equitable adjustment of costs for such changes or corrections, and the Government shall not be liable for claims of loss of business, damage to reputation, damages of any other kind arising from discovery of new or unanticipated threats or hazards, or any public or private disclosure thereof.

and;

(6) Ensure that the details of the safeguards which the contractor may design or develop under this contract become the property of the Government and are not to be published or disclosed in any manner without the written consent of the Government. Also, the details of the safeguards which may be revealed to the contractor by the Government in the course of performing under a particular contract are not to be published or dis-

closed without the express written consent of the Government.

[41 FR 14732, Apr. 7, 1976, as amended at 41 FR 48519, Nov. 4, 1976; 42 FR 17120, Mar. 31, 1977. Redesignated at 43 FR 27191, June 23, 1978]

PART 101-36—ADP MANAGEMENT [1]

Sec.
101-36.000 Scope of part.
101-36.001 Review of proposed determinations by the Office of Management and Budget.

Subpart 101-36.1—Revolving Fund [Reserved]

Subpart 101-36.2—Automatic Data Processing Resources Utilization

101-36.200 Applicability and scope of subpart.
101-36.201 Definitions.
101-36.202 Program administration.
101-36.203 Government-wide ADP Sharing Program.
101-36.203-1 ADP sharing procedures.
101-36.203-2 Authorization for commercial procurement.
101-36.203-3 Exemptions.
101-36.203-4 Reports.

Subpart 101-36.3—Reutilization of Automatic Data Processing Equipment and Supplies

101-36.300 Scope and applicability of subpart.
101-36.301 Definitions.
101-36.301-1 Automatic data processing equipment.
101-36.301-2 Federal agency.
101-36.301-3 Holding agency.
101-36.301-4 Excess.
101-36.301-5 Surplus.
101-36.301-6 Exchange/sale ADPE.
101-36.301-7 Reassignment.
101-36.301-8 Automatic release date (ARD).
101-36.301-9 Availability list.
101-36.301-9a Mailing list.
101-36.301-10 Want list.
101-36.301-11 Hold.
101-36.301-12 Withdrawal.
101-36.301-13 ADP Fund.
101-36.301-14 Transfer.
101-36.301-15 Reutilization.
101-36.301-16 Cannibalization.
101-36.301-17 Condition codes.
101-36.301-18 Project grants.
Sec.
101-36.301-19 Grants.
101-36.302 Reassignment of ADPE within Federal agencies.
101-36.303 Reutilization of excess ADPE.
101-36.303-1 Designation of agency ADPE point of contact.
101-36.303-2 Considerations for use of excess Government-owned or -leased ADPE.
101-36.303-3 Reporting excess or exchange/sale ADPE.
101-36.304 Availability List.
101.32-305 Want list and holds.
101-36.306 Requests for transfer of excess ADPE or exchange/sale ADPE.
101-36.307 Care and handling of excess or exchange/sale ADPE.
101-36.308 Donation and sale of surplus ADPE.
101-36.309 Use of the ADP Fund.
101-36.309-1 General conditions of an ADP Fund lease.
101-36.309-2 Reporting ADP Fund equipment excess.
101-36.309-3 Transfer of ADP Fund equipment.
101-36.309-4 Guarantee of ADP Fund equipment.
101-36.309-5 Use of the ADP Fund for acquisition of exchange/sale ADPE.
101-36.310 Use of excess ADPE on cost-reimbursement type contracts and project grants.
101-36.310-1 Use of excess ADPE on cost-reimbursement type contracts.
101-36.310-2 Use of excess ADPE on grants: Eligibility.
101-36.310-3 Use of excess ADPE on project grants: Federal and project grantee responsibility.

Subpart 101-36.4 [Reserved]

Subpart 101-36.5—ADP Management Information System (ADP/MIS)

101-36.501 Purpose.
101-36.502 Supersession.
101-36.503 Policy intent.
101-36.504 Applicability and scope.
101-36.505 Definitions.
101-36.506 Policies and procedures.
101-36.507 Responsibilities.
101-36.508 Reporting requirement.

Subpart 101-36.6—Assistance to Federal Agencies—[Reserved]

Subpart 101-36.7—Environmental and Physical Security

101-36.700 Scope of subpart.
101-36.701 Definitions.
101-36.702 ADP facility environment.
101-36.702-1 Temperature and humidity.

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[1] See Temporary Regulations F-495, F-496, and F-497 in the appendix to Subchapter F for temporary changes to Part 101-36.

Sec.
101-36.702-2 Lighting and electrical service.
101-36.702-3 Cleanliness.
101-36.702-4 Personnel.
101-36.702-5 Precautionary measures.
101-36.703 Fire safety.
101-36.703-1 Fire prevention—master control switches.
101-36.703-2 Portable firefighting equipment.
101-36.703-3 Smoke detection.
101-36.704 Contingency planning.
101-36.705 Security of ADP facilities.
101-36.706 Physical security for ADP facilities.

Subpart 101-36.8—Federal Data Processing Centers

101-36.800 Scope and applicability of subpart.
101-36.801 Definitions.
101-36.801-1 Federal Data Processing Center.
101-36.801-2 Detailed automatic data processing systems design.
101-36.802 General.
101-36.803 Services available from FDPC's.
101-36.804 Point of contact.
101-36.805 Federal Computer Performance Evaluation and Simulation Center.

Subpart 101-36.9—ADP Collocation and Consolidation Program

101-36.900 Scope of subpart.
101-36.901 Applicability.
101-36.902 Definitions.
101-36.902-1 Collocation.
101-36.902-2 Consolidation.
101-36.902-3 Joint utilization.
101-36.902-4 ADP facilities.
101-36.902-5 Collocation or consolidation study.
101-36.903 Objectives of the ADP collocation and consolidation program.
101-36.904 Intra-agency collocation or consolidation actions.
101-36.905 Interagency collocation or consolidation actions.
101-36.905-1 Exemptions.
101-36.905-2 Study group.
101-36.905-3 Initiation of a feasibility study.
101-36.905-4 Arrangements and guidelines for conducting a feasibility study.
101-36.905-5 Effect on procurement process.
101-36.905-6 Determining feasibility.
101-36.906 Action when mutual agreement is not reached.
101-36.907 Implementation of a decision to collocate or consolidate.
101-36.908 Review of a collocated or consolidated facility.

Subpart 101-36.10—ADP Records Management

Sec.
101-36.1000 Scope of subpart.
101-36.1001 ADP records management function.
101-36.1002 Source data automation in paperwork systems.

Subpart 101-36.11—Data Communications Support for ADP Systems

101-36.1100 Scope of subpart.
101-36.1101 Applicability.
101-36.1102 Definitions.
101-36.1102-1 Data communications.
101-36.1102-2 Communications study.
101-36.1103 GSA assistance.
101-36.1104 Preliminary consideration of data communications requirements.
101-36.1105 Data communications study assistance.
101-36.1106 Factors for consideration.
101-36.1107 Report of data communications study group.
101-36.1108 Approval of data communications systems.

Subpart 101-36.12—Care and Handling of Magnetic Computer Tape

101-36.1200 Scope of subpart.
101-36.1201 Applicability.
101-36.1202 GSA assistance.
101-36.1203 Magnetic computer tape.
101-36.1204 Magnetic computer tape errors.
101-36.1205 Care and handling of magnetic computer tape.
101-36.1206 Cleaning and certifying magnetic computer tape.
101-36.1207 Maintenance of tape files.

Subpart 101-36.13—Implementation of Federal Information Processing and Federal Telecommunication Standards into Solicitation Documents

101-36.1300 Scope of subpart.
101-36.1301 Applicability.
101-36.1302 Federal standards.
101-36.1302-1 Federal Information Processing Standards Publications (FIPS PUBS).
101-36.1302-2 Federal Telecommunication Standards (FED-STD).
101-36.1302-3 Joint Federal Information Processing Standards (FIPS) and Federal Telecommunication Standards (FED-STD).
101-36.1303 Definitions.
101-36.1303-1 Standard terminology.
101-36.1303-2 Hardware standards.
101-36.1303-3 Software standards.
101-36.1303-4 Applications standards.
101-36.1303-5 Data standards.

Sec.
101-36.1304 Hardware standards.
101-36.1304-1 FIPS PUB 1, Code for Information Interchange.
101-36.1304-2 FIPS PUB 2, Perforated Tape Code for Information Interchange.
101-36.1304-3 FIPS PUB 3-1, Recorded Magnetic Tape for Information Interchange (800 CPI, NRZI).
101-36.1304-4 FIPS PUB 7, Implementation of the Code for Information Interchange and Related Media Standards.
101-36.1304-5 FIPS PUB 13, Rectangular Holes in 12-Row Punched Cards.
101-36.1304-6 FIPS PUB 14, Hollerith Punched Card Code.
101-36.1304-7 FIPS PUB 15, Subsets of the Standard Code for Information Interchange.
101-36.1304-8 FIPS PUB 25, Recorded Magnetic Tape for Information Interchange (1600 CPI, Phase Encoded).
101-36.1304-9 FIPS PUB 26, One-Inch Perforated Paper Tape for Information Interchange.
101-36.1304-10 FIPS PUB 27, Take-up Reels for One-Inch Perforated Tape for Information Interchange.
101-36.1304-11 FIPS PUB 32, Optical Character Recognition Character Sets.
101-36.1304-12 FIPS PUB 33, Character Set for Handprinting.
101-36.1304-13 FIPS PUB 35, Code Extension Techniques in 7 or 8 Bits.
101-36.1304-14 FIPS PUB 36, Graphic Representation of the Control Characters of ASCII (FIPS 1).
101-36.1304-15 FIPS PUB 46, Data Encryption Standard (DES).
101-36.1304-16 FIPS PUB 50, Recorded Magnetic Tape for Information Interchange, 6250 CPI (246 CPMM), Group Coded Recording.
101-36.1304-17 FIPS PUB 51, Magnetic Tape Cassettes for Information Interchange (3.810 mm [0.150 in] Tape at 32 BPMM [800 BPI], PE).
101-36.1304-18 FIPS PUB 52, Recorded Magnetic Tape Cartridge for Information Interchange, 4-Track, 6.30 mm (0.250 in), 63 BPMM (1600 BPI) Phase Encoded.
101-36.1304-19 FIPS PUB 54, Computer Output Microform (COM) Formats and Reduction Ratios, 16 mm and 105 mm.
101-36.1304-20 FIBS PUB 60, Input/Output (I/O) Channel Interface.
101-36.1304-21 FIPS PUB 61, Channel Level Power Control Interface.
101-36.1304-22 FIPS PUB 62, Operational Specifications for Magnetic Tape Subsystems.
101-36.1304-23 FIBS PUB 63, Operational Specifications for Rotating Mass Storage Subsystems.
101-36.1305 Software standards.
Sec.
101-36.1305-1 FIPS PUB 21-1, Federal Standard COBOL.
101-36.1305-2 FIPS PUB 24, Flowchart Symbols and Their Usage in Information Processing.
101-36.1305-3 FIPS PUB 30, software summary for describing computer programs and automated data systems.
101-36.1305-4 FIPS PUB 53, Transmittal Form for Describing Computer Magnetic Tape File Properties.
101-36.1306 Applications standards.
101-36.1307 Data standards.
101-36.1307-1 FIPS PUBS applicable to the interchange of machine processable data between and among agencies.
101-36.1308 Federal Telecommunication Standards (FED-STD).
101-36.1308-1 FED-STD 1002, Time and Frequency Reference Information in Telecommunications Systems.
101-36.1308-2 FED-STD 1005, Coding and Modulation Requirements for Nondiversity 2400 Bit/Second Modems.
101-36.1308-3 FED-STD 1006, Coding and Modulation Requirements for 4800 Bit/Second Modems.
101-36.1309 Joint FIPS/FED-STD.
101-36.1309-1 FIPS PUB 37/FED-STD 1001, Synchronous High Speed Data Signaling Rates Between Data Terminal Equipment and Data Communication Equipment.
101-36.1309-2 FIPS PUB 16-1/FED-STD 1010, Bit Sequencing of the Code for Information Interchange in Serial-By-Bit Data Transmission.
101-36.1309-3 FIPS PUB 17-1/FED-STD 1011, Character Structure and Character Parity Sense for Serial-By-Bit Data Communication in the Code for Information Interchange.
101-36.1309-4 FIPS PUB 18-1/FED-STD 1012, Character Structure and Character Parity Sense for Parallel-By-Bit Data Communication in the Code for Information Interchange.
101-36.1309-5 FIPS PUB 22-1/FED-STD 1013, Synchronous Signaling Rates Between Data Terminal and Data Communication Equipment.

Subpart 101-36.14—Computer Performance Evaluation and ADP Simulation

101-36.1400 Scope of subpart.
101-36.1401 Definitions.
101-36.1402 Functions of the Federal Computer Performance Evaluation and Simulation Center.
101-36.1402-1 Services available.
101-36.1402-2 Joint Policy Committee for ADP Simulation.

Sec.
101-36.1402-3 Policy for obtaining ADP simulation and computer performance evaluation and services from the Federal Computer Performance Evaluation and Simulation Center.
101-36.1403 Procedures for obtaining ADP simulation and computer performance evaluation services from the Federal Computer Performance Evaluation and Simulation Center.
101-36.1404 GSA responsibilities.

Subpart 101-36.15 [Reserved]

Subpart 101-36.16—Federal Software Exchange Program

101-36.1600 Scope of subpart.
101-36.1601 Applicability.
101-36.1602 Definitions.
101-36.1603 Common-use software.
101-36.1604 Program operation and policy guidance.
101-36.1605 Program objectives.
101-36.1606 Services performed by the Federal Software Exchange Center (FSEC).
101-36.1607 Agency actions.
101-36.1608 Arrangements and guidelines for use of the Software Exchange Program.
101-36.1609 Effect on the software procurement process.
101-36.1610 Form availability.
101-36.1611 Federal Software Exchange Catalog availability.
101-36.1612 Software Exchange Program review.
101-36.1613 Assistance by GSA.

Subparts 101-36.17—101-36.46—[Reserved]

Subpart 101-36.47—Reports

101-36.4700 Scope of subpart.
101-36.4701 Reporting of sharing and services obtained from a commercial source.
101-36.4701-1 Reports by ADP units.
101-36.4701-2 Centralized reporting.
101-36.4701-3 Reports control.
101-36.4702 Reporting excess or exchange/sale ADPE.
101-36.4702-1 Assignment of Automatic Release Date.
101-36.4702-2 Withdrawal of reports of excess or exchange/sale ADPE.
101-36.4702-3 Corrections to reports of excess or exchange/sale ADPE.
101-36.4702-4 Annual reporting requirements.

Subpart 101-36.48—Exhibits

101-36.4800 Scope of subpart.
101-36.4801 ADP Sharing Exchange addresses.
Sec.
101-36.4802 Map showing GSA regions and locations of ADP sharing exchanges.

Subpart 101-36.49—Illustrations of Forms

101-36.4900 Scope of subpart.
101-36.4901 Standard forms.
101-36.4901-120 Standard Form 120, Report of Excess Personal Property.
101-36.4901-122 Standard Form 122, Transfer Order Excess Personal Property.
101-36.4902 GSA forms.
101-36.4902-2068 GSA Form 2068, Request for ADP Service.
101-36.4902-2068A GSA Form 2068A, Quarterly Report of ADP Service.
101-36.4902-2928 GSA Form 2928, Automated Data and Telecommunications System Plan.

AUTHORITY: Executive Order 11717 (38 FR 12315, May 11, 1973); sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)); Executive Order 11893 (41 FR 1040, Jan. 6, 1976), unless otherwise noted.

§ 101-36.000 Scope of part.

This part provides policies, procedures, and guidelines pertaining to the Government-wide management of automated data processing equipment and services, including revolving fund, resources utilization, utilization of excess, maintenance and repair, and related subjects. Policies and procedures pertaining to procurement and contracting for automated data processing equipment, software, maintenance services, and supplies are set forth in FPR 1-4.11.

[41 FR 43546, Oct. 1, 1976. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-36.001 Review of proposed determinations by the Office of Management and Budget.

The authority conferred upon the Administrator of General Services and the Secretary of Commerce by Pub. L. 89-306 will be exercised subject to direction by the President and to fiscal and policy control exercised by the Office of Management and Budget. Authority so conferred upon the Administrator shall not be construed as to impair or interfere with the determination by agencies of their individual automatic data processing equipment requirements, including the development of specifications for and the selection of the types and configurations of equipment needed. The Administrator will not interfere with, nor attempt to control in any way, the use made of automatic data processing equipment or components thereof by any agency. The Administrator will provide adequate notice to all agencies and other users concerned with respect to each proposed determination specifically affecting them or the automatic data processing equipment or components used by them. In the absence of mutual agreement between the Administrator and the agency or user concerned, such proposed determination will be subject to review and decision by the Office of Management and Budget unless the President otherwise directs. When an agency submits these matters to the Office of Management and Budget for resolution, copies of the submission and all relevant data and information (other than that previously furnished by the agency) shall be furnished the Commissioner, Automated Data and Telecommunications Service (C), General Services Administration, Washington, D.C. 20405. Copies of data or information submitted to the Office of Management and Budget by GSA in this connection will be furnished the agency concerned.

[38 FR 8510, Apr. 3, 1973. Redesignated at 43 FR 27191, June 23, 1978]

Subpart 101-36.1—Revolving Fund [Reserved]

Subpart 101-36.2—Automatic Data Processing Resources Utilization

§ 101-36.200 Applicability and scope of subpart.

This subpart is applicable to all Federal agencies and establishes policies and procedures governing the utilization of automatic data processing (ADP) resources.

[33 FR 146, Jan. 5, 1968. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-36.201 Definitions.

Terms used in this subpart are defined as follows:

(a) "Federal agency" means any executive agency (executive department or independent establishment in the executive branch, including any wholly owned Government corporation) or any establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, and the Architect of the Capitol, and any activities under his direction).

(b) An "ADP resource" is:

(1) Automatic data processing equipment (ADPE). This includes general purpose electronic data processing equipment (EDPE), computer output microfilm (COM) equipment, punchcard accounting machines (PCAM or EAM), and source data automation (SDA) equipment irrespective of use, application, or source of funding. This also includes ADPE built to Government specifications.

(2) Software (the totality of programs and routines used to extend the capabilities of computers, such as compilers, assemblers, narrators, routines, and subroutines); and

(3) Personal services (management systems analysts, programers, operators, etc.).

(c) An "ADP unit" is any organizational element of the Federal Government which:

(1) Uses or plans to use ADP equipment;

(2) Acquires or plans to acquire ADP services (i.e., services for machine time, operations, and maintenance; systems analysis and design; programing; training; and studies or advice on equipment acquisition, selection, and use) from Government or other sources;

(3) Has organizational components which perform ADP functions such as coordinating ADP programs and activities; developing, programing, and implementing systems; reviewing, recommending, or selecting ADP equipment; approving the acquisition of ADP equipment or services; or providing ADP services on a consulting or project basis for agency ADP units; or

(4) Has Government contractors, including educational institutions and other not-for-profit contractors or organizations, who operate ADP equipment in the performance of work under cost reimbursement-type contracts or subcontracts when:

(i) Equipment is leased and the total cost of leasing is to be reimbursed under one or more cost reimbursement-type contracts;

(ii) Equipment is purchased by the contractor for the account of the Government or title will pass to the Government;

(iii) The equipment is furnished to the contractor by the Government; or

(iv) The equipment is installed in Government-owned, contractor-operated facilities.

(d) "ADP sharing" means the use of available ADP resources by organizations that the organization providing the resource does not have a primary mission responsibility to support.

[33 FR 146, Jan. 5, 1968, as amended at 40 FR 48135, Oct. 14, 1975; 40 FR 50034, Oct. 28, 1975. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-36.202 Program administration.

The Government-wide ADP sharing program is administered by the Office of Agency Assistance, Planning, and Policy (CP), Automated Data and Telecommunications Service, General Services Administration, Washington, D.C. 20405. ADP sharing exchanges (addresses are shown in § 101-36.4801; locations and designations are illustrated in § 101-36.4802) assist in the administration of this program.

[38 FR 8511, Apr. 3, 1973. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-36.203 Government-wide ADP Sharing Program.

(a) This program is operated by means of a complex of ADP sharing exchanges designed to provide maximum assistance to Federal activities located in the 50 States and the District of Columbia, in obtaining initial or additional ADPE time, software, or personal services.

(b) A sharing exchange is operated by the Agency Services Coordination Division (CP) in each GSA region. Where ADP resources are highly concentrated, additional sharing exchanges are operated within GSA regions by GSA or other Federal activities. Those sharing exchanges operated by Federal activities other than GSA are established by an interagency agreement between GSA and the concerned Federal agency and are managed by the agencies under the technical supervision and guidance of the appropriate regional Agency Services Coordination Division. Each ADP sharing exchange assists in obtaining ADP services through this program's nationwide information and referral system.

(c) When telecommunications services are required in conjunction with sharing of ADP resources provided by GSA, other Government ADP resources, or in obtaining commercial time, agencies shall comply with the applicable provisions of Part 101-37. The information required by Part 101-37 shall be submitted at the time the request for ADP services is submitted. In those instances where the provisions of Part 101-37 apply and the ADP resources are to be provided by GSA, the regional Agency Services Coordination Division will coordinate the necessary telecommunications review for the requesting agency.

[33 FR 146, Jan. 5, 1968, as amended at 35 FR 10294, June 24, 1970, 38 FR 8511, Apr. 3, 1973. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-36.203-1 ADP sharing procedures.[1]

Federal agencies shall not initiate the process of selecting and acquiring ADP time or services from commercial sources unless it is first determined that the required ADP capability cannot be met satisfactorily by utilizing existing Federal ADP resources or established GSA mandatory contractual resources. Federal agencies shall first attempt to satisfy their ADP requirements by screening resources of other ADP units in their vicinity. If the result of the screening is unsuccessful, the requirement shall be referred to the appropriate ADP sharing exchange for assistance in locating suitable Federal ADP resources and in making the necessary arrangements for sharing. Requests for assistance may be made by mail, telephone, teletypewriter, or personal contact. GSA Form 2068, Request for ADP Service (illustrated at § 101-36.4902-2068), shall be used for mail requests.

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[1] See Temporary Regulation F-495 in the appendix to Subchapter F for temporary changes to §§ 101-36.203-1 and 101-36.203-2.

[40 FR 50034, Oct. 28, 1975. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-36.203-2 Authorization for commercial procurement.[2]

ADP units in 50 States and the District of Columbia shall defer obtaining ADP time or services from a commercial source pending compliance with § 101-36.203-1 and review of established GSA mandatory contractual resources. A GSA Form 2068, approved by a GSA ADP sharing exchange, is used to notify requestors when no existing Federal ADP resources are available to satisfy their requirements. (See Parts 101-37 and 101-33 respectively, if telecommunications or public utilities services are required.)

(a) An approved GSA Form 2068 constitutes a delegation of procurement authority to the requesting agency to acquire ADP services from commercial sources. Without an approved GSA Form 2068, agencies do not have authority to contract for such services. However, when an agency does receive an approved GSA Form 2068, the 2068 does not constitute procurement authority to acquire from a sole source. Agencies are required to comply with the provisions of §§ 1-1.301-1 and 1-3.210 for guidance relating to competition in procurement.

(b) Before authorizing commercial procurement of ADP services, GSA will review the GSA Form 2068 and other available documents for the type of proposed procurement, its requirements specifications, and its evaluation and selection provisions in order to promote overall Government economy and efficiency.

(c) If a request for ADP services will or may result in the Government's acquiring title to general-purpose ADP equipment or proprietary software, GSA will process the proprietary software and equipment portions of the request as an Agency Procurement Request (APR) in a manner similar to the method described by Subpart 101-36.4.

(d) Federal agencies must determine that existing Federal ADP resources cannot satisfy their requirements for ADP equipment, as specified in § 101-36.303-2, before submitting an APR. Requirements for submission and processing of an APR are in §§ 101-36.404 and 101-36.405.

(e) If software to satisfy an agency requirement cannot be discovered by screening Government resources, as required by § 101-36.203-1, an APR may be submitted to procure proprietary software, as specified in § 101-36.403-2. Software development, in contrast to proprietary software, in being, is an ADP service and as such is subject to the provisions of § 101-36.203-1, of this part.

[40 FR 50034, Oct. 28, 1975. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-36.203-3 Exemptions.

(a) It is incumbent upon all ADP units to exert every effort to participate in the sharing of their ADP resources to attain maximum use of these resources. However, it is recognized that agencies may desire specific exemptions from sharing ADP equipment due to the peculiarity or uniqueness of a particular program or mission, or to the design of the equipment. Accordingly, the following ADPE are exempt from the requirements for sharing in accordance with this § 101-36.203:

(1) EDPE built or modified to special Government design specifications which has no general purpose applicability and is integral to a weapons or space system; and

(2) Analog computers.

(3) ADPE maintenance services. Acquisition of ADPE maintenance services is governed by Subpart 101-36.4. Unique requirements pertaining to maintenance services are described in § 101-36.403-3.

(b) When Federal agencies desire to exempt ADP equipment (EDPE, COM, SDA, EAM, and PCAM) not specifically exempt in § 101-36.203-3(a) to avoid compromise of national security or defense or to ensure economy and efficiency, requests for such exemptions shall be submitted, with adequate justification, to the General Services Administration (CPC), Washington, D.C. 20405. ADP equipment to be exempted shall be identified by the ADP unit number prescribed in the reporting instructions implementing FPMR 101-36.5.

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[2] See Temporary Regulation F-495 in the appendix to Subchapter F for temporary changes to §§ 101-36.203-1 and 101-36.203-2.

[33 FR 146, Jan. 5, 1968, as amended at 38 FR 8511, Apr. 3, 1973; 40 FR 50034, Oct. 28, 1975. Redesignated and amended at 43 FR 27191, June 23, 1978]

§ 101-36.203-4 Reports.

ADP sharing and use of commercial ADP services shall be reported as specified in Subpart 101-36.47. Interagency Report Control Number 1106-GSA-QU has been assigned to GSA Form 2068-A, Quarterly Report of ADP Service, in accordance with FPMR 101-11.11.

[40 FR 50034, Oct. 28, 1975. Redesignated at 43 FR 27191, June 23, 1978]

Subpart 101-36.3—Reutilization of Automatic Data Processing Equipment and Supplies

AUTHORITY: Sec. 111, 79 Stat. 1127; 40 U.S.C. 759; and Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

SOURCE: 37 FR 8876, May 2, 1972, unless otherwise noted. Redesignated at 43 FR 27191, June 23, 1978.

§ 101-36.300 Scope and applicability of subpart.

This subpart sets forth policies and procedures governing the worldwide reutilization of automatic data processing equipment in the Federal Government. The provisions of this Subpart 101-36.3 apply to all Federal agencies.

§ 101-36.301 Definitions.

Terms as used in this Subpart 101-36.3 shall have the following meanings:

§ 101-36.301-1 Automatic data processing equipment.

"Automatic data processing equipment" (ADPE) means automatic data processing components and the equipment systems created from them, regardless of use, size, capacity, or price, that are designed to be applied to the solution or processing of a variety of problems or applications. Whether general purpose or special purpose, Government-owned or leased, ADPE includes:

(a) Digital, analog, or hybrid computer equipment; and/or

(b) Auxiliary or accessorial equipment such as plotters, communications terminals, source data automation recording equipment (optical character recognition equipment, paper tape typewriters, magnetic tape cartridge and card typewriters, and other data acquisition devices), etc., acquired for use in conjunction with digital, analog, or hybrid computer equipment, either cable connected, wire connected, or self-standing and whether selected or acquired with a computer or separately; and/or

(c) Government-owned punched card accounting machines (PCAM) used in conjunction with or independently of digital, analog, or hybrid computers.

(d) ADP supplies and support equipment such as but not limited to electronic data processing (EPD) paper, seal bands, tapes, canisters, reels, control panels and wires, certifying and cleaning equipment, winders, splicers, cabinets, safes, and racks peculiar to ADP operations.

[37 FR 8876, May 2, 1972 as amended at 44 FR 6100, Jan. 31, 1979]

§ 101-36.301-2 Federal agency.

"Federal agency" means executive agencies (executive departments or independent establishments in the executive branch of the Government, including wholly owned Government corporations) and establishments in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, and the Architect of the Capitol and any activities under his direction). For the purpose of this subpart, also included in the definition of Federal agency are Government grantees and contractors of Federal agencies who operate ADPE under grants, contracts, or subcontracts, and use the equipment in support of these grants, contracts, or subcontracts when ADPE is:

(a) Leased and the total cost of leasing is reimbursed under one or more Government contracts or grants; or

(b) Acquired by a contractor or grantee under a contract or grant pursuant to the terms of which title is either vested in the Government or the Government is obligated or has the option to take over title; or

(c) Furnished to the grantee or contractor by the Government; or

(d) Installed in Government-owned, contractor-operated facilities.

[37 FR 8876, May 2, 1972, as amended at 39 FR 39041, Nov. 5, 1974. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-36.301-3 Holding agency.

"Holding agency" means the Federal agency which has accountability for the property involved.

§ 101-36.301-4 Excess.

"Excess" means ADPE controlled by a Federal agency but not required for its needs and the discharge of its responsibilities as determined by the head thereof.

[38 FR 8511, Apr. 3, 1973. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-36.301-5 Surplus.

"Surplus" means any excess Government-owned ADPE not required for the needs and the discharge of the responsibilities of all Federal agencies as determined by the Administrator of General Services.

§ 101-36.301-6 Exchange/sale ADPE.

"Exchange/sale ADPE" means Government-owned ADPE which is to be replaced pursuant to the exchange/sale authority contained in Part 101-46.

§ 101-36.301-7 Reassignment.

"Reassignment" means the transfer of ADPE other than excess within an agency when it is no longer needed for the purpose or use for which it has been acquired.

§ 101-36.301-8 Automatic release date (ARD).

"Automatic release date" (ARD) means the date established by GSA on which screening or advertising of excess Government-owned ADPE or exchange/sale ADPE to Federal agencies is terminated. The ARD signifies the date that Government-owned ADPE is transferred from excess to surplus status or the date the ADPE is released for exchange/sale. For Government-leased ADPE, the ARD is the date established by the holding agency as the date on which the equipment will be returned to the supplier.

[39 FR 39042, Nov. 5, 1974. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-36.301-9 Availability list.

ADPE "Availability List" is a listing of excess and exchange/sale ADPE available for reutilization by Federal agencies.

[40 FR 49329, Oct. 22, 1975. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-36.301-9a Mailing list.

The "mailing list" is an automated address list maintained by GSA for dissemination of the ADPE Availability List. Federal agencies (as defined in § 101-36.301-2) that are eligible for transfer of excess ADPE may request placement on the mailing list.

[40 FR 49329, Oct. 22, 1975. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-36.301-10 Want list.

"Want list" means an inventory of ADPE requirements maintained by GSA on the basis of needs expressed by Federal agencies for which demand may be potentially satisfied from excess or exchange/sale ADPE when reported.

[39 FR 39042, Nov. 5, 1974. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-36.301-11 Hold.

"Hold" means a reservation placed on reported excess ADPE by GSA in response to a request by a Federal agency.

§ 101-36.301-12 Withdrawal.

"Withdrawal" means a request for cancellation of a report of excess ADPE.

§ 101-36.301-13 ADP Fund.

The "ADP Fund" means a financing mechanism administered by GSA and which, subject to GSA approval, is available without fiscal year limitation for financing the procurement of ADPE and related items by lease, purchase, transfer, or otherwise.

§ 101-36.301-14 Transfer.

"Transfer" means:

(a) Conveyance of leased excess ADPE from one Federal agency to another Federal agency, or to the ADP Fund, under the applicable contract provisions; or

(b) Conveyance of Government-owned excess ADPE from one Federal agency to another Federal agency or to the ADP Fund; or

(c) Conveyance of exchange/sale ADPE from one Federal agency to another Federal agency, or to the ADP Fund; or

(d) Conveyance of ADP Fund equipment to a Federal agency.

[37 FR 8876, May 2, 1972, as amended at 38 FR 8511, Apr. 3, 1973. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-36.301-15 Reutilization.

"Reutilization" means the subsequent use of ADPE after such ADPE is no longer required for the purpose for which it had been acquired.

§ 101-36.301-16 Cannibalization.

"Cannibalization" means the removal of a part or device which is not identifiable by a manufacturer's type or model number from an ADP component which is identifiable by a manufacturer's type or model number; or, the removal of any part or device from an ADP component which would cause that component not to function as intended by its manufacturer.

§ 101-36.301-17 Condition codes.

Single-position alpha-numeric condition codes shall be used to define the condition of all excess ADPE and supplies reported to GSA for reutilization. These codes are defined in § 101-43.4801 (e) and (f). The condition code reporting procedure is outlined in § 101-36.4702.

[46 FR 8513, Jan. 27, 1981]

§ 101-36.301-18 Project grants.

The term "project grants" means grants made to specific institutions and organizations for a specific purpose with established costs and termination dates.

[43 FR 50177, Oct. 27, 1978]

§ 101-36.301-19 Grants.

The term "grants" means grants-in-aid. Grants-in-aid are grants or subsidies from public resources in aid of public undertakings.

[43 FR 50177, Oct. 27, 1978]

§ 101-36.302 Reassignment of ADPE within Federal agencies.

(a) Government-owned ADPE not declared excess shall be reassigned within the agency when it is no longer required for the purpose for which it was acquired and the agency has another approved requirement which can best or most economically be met by reassigning this ADPE. When Government-owned ADPE can be substituted for ADPE intended to be acquired by lease or purchase or when Government-owned ADPE can be adapted for other further use, the intended acquisition action shall be stopped. Title transfer (under the authority of FPMR 101-46) between such owned ADPE and leased ADPE shall be considered as a means of reducing rental payments. ADPE shall be reassigned as specified in § 101-36.303-2.

(b) The reassignment of Government-leased ADPE that has not been declared excess and that is no longer required for the purpose and use for which it was originally acquired is a sole source procurement action and, therefore, must be accomplished as specified in regulations governing sole source procurements.

(c) When there is no approved requirement for ADPE within the agency and ADPE is determined to be excess, this ADPE shall be reported to GSA as specified in Subpart 101-36.47.

(d) Reassignment of ADPE to Federal agency grantees shall not be made until Federal requirements are determined in accordance with this subpart 101-36.3 and § 101-36.4702.

(e) The use of ADPE for maintenance by redundancy (backup) or cannibalization for a parts source of supply shall not be made until Federal requirements are determined in accordance with this Subpart 101-36.3 and § 101-36.4702.

[39 FR 39042, Nov. 5, 1974. Redesignated at 43 FR 27191, June 23, 1978, and amended at 43 FR 50177, Oct. 27, 1978]

§ 101-36.303 Reutilization of excess ADPE.

The primary source of supply for meeting ADPE requirements is excess. To obtain maximum reutilization and to minimize the procurement of new ADPE, excess and exchange/sale ADPE shall be made available for transfer to other Federal agencies in accordance with the provisions of this Subpart 101-36.3. Excess ADP supplies and support items with a unit original acquisition cost (OAC) of $1,500 or less shall be made available for transfer to other Federal agencies in accordance with the provisions of Subpart 101-43.3. Any need for excess ADPE expressed by a Federal agency, including the Senate, the House of Representatives, the Architect of the Capitol and any activities under the Architect's direction, the District of Columbia, and mixed-ownership Government corporations, shall take precedence over disposal, provided such need is made known to GSA prior to shipment or delivery in case of donation or prior to removal of the property for Government control in case of sale.

[44 FR 6100, Jan. 31, 1979]

§ 101-36.303-1 Designation of agency ADPE point of contract.

(a) Each agency head shall designate an agency ADPE point of contract to promote the maximum reutilization of excess ADPE, to provide proper coordination on an interagency basis, and to insure the excess ADPE is acquired in accordance with agency plans and program efforts. The name, address, and phone number of this individual shall be submitted promptly after designation to General Services Administration (CDSDE), Washington, D.C. 20405.

(b) To provide guidance to GSA concerning excess property management by agencies, each agency ADPE point of contact shall provide to GSA a copy of each agency implementing regulations for excess ADPE and each current change. Copies of regulations shall be submitted to General Services Administration (CDSDE), Washington, D.C. 20405.

[43 FR 50177, Oct. 28, 1978]

§ 101-36.303-2 Considerations for use of excess Government-owned or -leased ADPE.

A procurement solicitation to acquire ADPE by purchase or lease shall not be initiated until it is first determined and appropriately documented that the requirement cannot be met economically and efficiently by sharing ADPE already installed (see Subpart 101-36.2) or by utilizing excess Government-owned or -leased ADPE advertised in ADPE Availability Lists published by GSA.

(a) Excess Government-owned ADPE shall be considered at all times as a replacement for installed leased ADPE, or in meeting new requirements if the excess owned ADPE has the capability to fulfill the systems specifications and its overall costs in terms of acquisition represent the least overall cost to the Government. The reutilization of excess Government-owned ADPE is not a procurement action and therefore is not subject to the laws and regulations governing procurement by Federal agencies.

(1) When a contract has been awarded or a purchase/delivery order placed against an applicable ADP Schedule contract for ADPE and similar owned excess ADPE becomes available, consideration shall be given to terminating the contract or purchase/delivery order for the convenience of the Government. An evaluation of termination charges, if any, shall be made in addition to the other considerations indicated in this § 101-36.303-2.

(2) To obtain maximum economic advantage to the Government, reutilization of excess owned ADPE to satisfy requirements generally shall be considered in the following priority order:

(i) To replace leased ADPE that is identical or functionally compatible;

(ii) To avoid procurement of new ADPE that is identical or functionally compatible;

(iii) To modify Government-owned ADPE to make it identical or functionally compatible;

(iv) To provide maintenance by redundancy, i.e., backup for installed ADPE; and

(v) To cannibalize in order to have a parts source of supply for maintenance. In instances where maintenance support has been discontinued or significantly curtailed, reuse priority may be given to agencies seeking to support their installed base.

(3) The use of excess owned ADPE for maintenance by redundancy or cannibalization for a parts source of supply shall not be made unless approved by GSA pursuant to § 101-36.306.

(b) The reutilization of excess leased ADPE is in the nature of a procurement and subject to the applicable laws and regulations governing procurement by Federal agencies. In general, these regulations require that a sole source finding and determination be made and documented, or the equipment be selected as a result of a competitive solicitation, or a finding and determination be documented that the equipment represents the lowest overall cost to the Government.

(c) ADPE acquired unde any plan; e.g., fixed term, extended term rental, or other such plan, wherein payments are still due shall be subject to the same conditions as leased ADPE in this Subpart 101-36.3.

(d) Since excess leased ADPE accrues substantial purchase option credits, agencies shall consider this equipment as a replacement for installed leased ADPE which has accrued fewer credits to the Government.

(e) When competing requirements exist for excess ADPE, GSA will determine the assignment of such ADPE to an agency on the basis of the greatest economic advantage to the Government.

[37 FR 8876, May 2, 1972, as amended at 39 FR 39042, Nov. 11, 1974; 41 FR 42954, Sept. 29, 1976. Redesignated at 43 FR 27191, June 23, 1978, and amended at 44 FR 6100, Jan. 31, 1979]

§ 101-36.303-3 Reporting excess or exchange/sale ADPE.

Upon determination by a Federal agency that Government-owned or -leased ADPE is excess to its needs or Government-owned ADPE will be replaced pursuant to the exchange/sale authority of Part 101-46, this information shall be reported as set forth in § 101-36.4702.

§ 101-36.304 Availability List.

GSA publishes and distributes an Availability List to inform Federal agencies of available excess and exchange/sale ADPE. This list is published approximately every 2 weeks.

(a) Agencies shall insure the widest possible distribution of Availability Lists to achieve full consideration for reutilization of available ADPE.

(b) Requests for additions, changes, and deletions to the mailing list for the availability list shall be made to the General Services Administration (CDSDE), Washington, D.C. 20405. Agencies sponsoring contractors or grantees, when forwarding requests for distribution of the availability list to such contractors or grantees, shall include the appropriate grant or contract number in their request.

(c) Requests concerning the availability of ADPE or for copies of the Availability List shall be addressed to GSA (address in § 101-36.304(b)).

[37 FR 8876, May 2, 1972, as amended at 40 FR 49329, Oct. 22, 1975. Redesignated at 43 FR 27191, June 23, 1978, and amended at 43 FR 50177, Oct. 28, 1978]

§ 101-36.305 Want list and holds.

GSA maintains records of want list requirements and holds as defined in § 101-36.301. Requests to establish want list requirements or holds may be made by telephone or letter (address in § 101-36.304(b)).

(a) Want list requirements are maintained by GSA for a period of 6 months. When excess ADPE becomes available, GSA will notify the requesting agency. If the agency determines that the excess ADPE will satisfy the need, the want list requirement will be canceled and a hold established as indicated in § 101-36.305(b) of this part. Want list requirements are automatically canceled 6 months from the date they are established. Agencies shall renew want list requirements if they are not satisfied during the 6-month period and the equipment is still desired.

(b) GSA, in response to requests of Federal agencies, will establish holds on excess ADPE which is available for reutilization. Holds are established in numerical sequence based upon the time requests are received. Excess ADPE will be transferred to the agency having the first recorded hold provided a properly completed SF 122, Transfer Order Excess Personal Property, is received by GSA within 15 workdays from the date the hold was established and that no other recorded requirement has compelling factors or will result in greater economic advantage to the Government.

[39 FR 39042, Nov. 11, 1974. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-36.306 Requests for transfer of excess ADPE or exchange/sale ADPE.

Requests for transfer of excess ADPE or reimbursable transfer of exchange/sale ADPE between Federal agencies shall be accomplished in accordance with this subpart by completing an SF 122, Transfer Order Excess Personal Property. (Transfers of excess ADP supplies and support items with a unit OAC of $1,500 or less shall be accomplished by the Federal Property Resources Service in accordance with FPMR Subpart 101-43.3.) The SF 122 shall contain the name and telephone number (commercial and FTS) of the agency official to be contacted regarding transportation details.

(a) The SF 122 (illustrated at § 101-36.4901-122) shall be signed by an authorized official of the requesting agency when the ADPE is to be used by the agency or by a Federal contractor or grantee of the agency. All standard forms 122 furnished by a Federal agency for excess or exchange/sale ADPE to be used by the agency or by Federal contractors shall provide the contract number under which the excess or exchange/sale ADPE is to be acquired and the expiration date of the contract. All standard forms 122 furnishing excess ADPE to project grantees shall affirm that the transfer is requested for use by a project grantee in accordance with this subpart 101-36.3 and shall include the name of the project grantee, the grant number, the scheduled date of grant termination, and the purpose of the transfer. If a transfer is being requested pursuant to § 101-36.310-2(e), the transfer order shall certify that, upon transfer of the ADPE, the granting agency will deposit to miscellaneous receipts in the U.S. Treasury an amount equal to 25 percent of the original acquisition cost (as documented by GSA) less the cost of care and handling.

(b) When excess owned ADPE is to be used for maintenance by redundancy or cannibalization for a parts source of supply, a statement to indicate such use shall be included on the SF 122. When title to excess owned ADPE is to be vested in a Federal grantee or title is to otherwise pass from the Federal Government, a statement to indicate this fact shall be included on the SF 122. Title will not be transferred unless such a statement is included. Preference will be given to Federal agency requests and to requests which will retain title in the Federal Government.

(c) An SF 122 used for requesting excess leased or exchange/sale ADPE shall contain a statement to indicate either that the requested equipment represents the least overall cost or that a sole source determination has been made and documented. In either case, if the equipment cost exceeds the dollar threshold established in subpart 1-4.11, then a delegation of procurement authority is required. Federal agency requests for the provision of excess to satisfy contractor requirements will be considered secondary to Federal agency requirements.

(d) The original and four copies of the SF 122 shall be submitted for approval to the General Services Administration (CDSDE), Washington, D.C. 20405.

(e) GSA will forward the original of the approved SF 122 to the holding agency and one copy to the requesting agency.

(f) If the approved SF 122 is for the transfer of excess leased ADPE, the requesting agency shall provide appropriate notice to the supplier in accordance with the applicable contract.

(g) If the transfer order (approved SF 122) does not contain complete shipping instructions, the requesting agency shall transmit such instructions to the holding agency within 15 workdays after receipt of the transfer order in the case of domestic shipments, or 45 workdays in the case of export shipments.

(h) The holding agency shall inform GSA of failure to receive shipping instructions.

(h-1) When the SF 122 requests shipment of equipment outside of the 48 conterminous States, the requesting agency may be required either to arrange shipment from the holding site or to arrange shipment from a specified point of debarkation within the 48 conterminous States.

(i) When the approved SF 122 indicates the ADPE is to be picked up by the requesting agency, the shipment shall be accomplished within 20 workdays from the time the requesting agency is notified by the holding agency that the shipment is ready. The holding agency shall inform GSA when the ADPE is not picked up within the allotted time.

(j) The holding agency shall ship or deliver the excess ADPE within 20 days after receipt of the SF 122 or receipt of complete shipping instructions as provided in § 101-36.306(g), whichever is later. If for any reason the holding agency is unable to ship or deliver within this established time frame, the holding agency shall promptly inform the requesting agency of the reason for delay and provide a revised shipping or delivery date.

(k) Operating manuals, parts lists, circuit or wiring diagrams, maintenance records, logs or other instructional or informational publications pertaining to the ADPE shall be shipped with the equipment.

(l) All cables, terminators, junction boxes, or other devices used with the ADPE shall be identification tagged, itemized on packing lists, and shipped with the equipment.

(m) The holding agency is responsible for billing and collecting the reimbursement requested when ADPE is transferred with reimbursement under the exchange/sale authority in Part 101-46 or other authority.

[37 FR 8876, May 2, 1972, as amended at 39 FR 39042, Nov. 5, 1974; 40 FR 49329, Oct. 22, 1975; 41 FR 42954, Sept. 29, 1976. Redesignated at 43 FR 27191, June 23, 1978, and amended at 43 FR 50177, Oct. 27, 1978; 44 FR 6100, Jan. 31, 1979]

§ 101-36.307 Care and handling of excess or exchange/sale ADPE.

(a) The reporting or holding agency shall be responsible for and bear the costs of care and handling of excess or exchange/sale ADPE pending disposition. In cases where reported Government-owned excess ADPE has potential for replacement of leased ADPE, GSA will require the holding activity to obtain a certificate of maintenance acceptability or an estimate to refurbish. If the holding agency has allowed the maintenance contract on ADPE to lapse and/or allowed the warehousing of ADPE and if subsequent refurbishment for purposes of reutilization is required, the holding agency shall be responsible for those refurbishment charges. Only direct costs incurred incident to a transfer (such as packing, loading, and transporting) shall be borne by the requesting agency when billed by the holding agency. Overhead or administrative costs, equipment disconnect charges, and other costs not directly related to and resulting solely from requests for transfer shall not be included. The requesting agency shall be responsible for any movement or temporary storage required after the date the transfer is approved; transportation of ADPE to the requesting agency; and rental costs, if any, for excess leased ADPE over the allowable free rental period in the applicable contract. Any question or controversy regarding responsibility for costs shall be referred for resolution to the General Services Administration (CDSDE), Washington, D.C. 20405. The holding agency is not required to retain excess leased ADPE in a lease status when the reporting requirements of § 101-36.4702 have been satisfied.

(b) When it is necessary to place ADPE in temporary storage, such ADPE shall be properly packed and placed in an area that is protected from the elements and unauthorized cannibalization. The movement and storage of ADPE shall be supervised by personnel specializing in movement and storage.

[37 FR 8876, May 2, 1972, as amended at 40 FR 49329, Oct. 22, 1975. Redesignated at 43 FR 27191, June 23, 1978, and amended at 43 FR 50178, Oct. 27, 1978]

§ 101-36.308 Donation and sale of surplus ADPE.

Government-owned ADPE reported in accordance with Subpart 101-36.47 and not reutilized by Federal agencies shall be held by the reporting agency pending compliance with the requirements of Parts 101-44 and 101-45.

[39 FR 39042, Nov. 5, 1974. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-36.309 Use of the ADP Fund.

(a) Excess Government-owned ADPE having a fair market value, as may be announced in the ADPE Availability List, and which is to be reutilized within the Federal Government, may be transferred to the ADP Fund. Such ADP Fund equipment will be leased to requiring agencies at a cost that represents the least cost alternative available to agencies.

(b) When excess leased ADPE with purchase option credits or exchange/sale ADPE can satisfy agency data processing requirements, GSA will consider using the ADP Fund to purchase the equipment for the requesting agency.

[39 FR 39042, Nov. 5, 1974. Redesignated at 43 FR 27191, June 23, 1978, and amended at 43 FR 50178, Oct. 27, 1978]

§ 101-36.309-1 General conditions of an ADP Fund lease.

The lessee shall:

(a) Be responsible for all charges, if any, for transportation, rigging and drayage, packing, and crating of equipment under the lease agreement;

(b) Be responsible for the expense of any necessary alterations or attachments subsequently installed on the equipment;

(c) Be responsible for any expenses necessary to remove any attachment installed under paragraph (b) of this section if requested by the lessor;

(d) Arrange and pay for any technical equipment modifications;

(e) Pay for equipment maintenance (The equipment shall be kept under continuous maintenance during the period of the agreement.);

(f) Provide written notice to GSA prior to any relocation of equipment to other sites;

(g) Be responsible for periodic confirmation of detailed property accountability records, which shall be maintained by GSA; and

(h) Retain use of the equipment as long as required under the terms and conditions of the agreement. (Ownership of the equipment shall remain with the ADP Fund.)

[39 FR 39042, Nov. 5, 1974. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-36.309-2 Reporting ADP Fund equipment excess.

Ninety calendar days before the anticipated release date of ADP Fund equipment, the leasing agency shall notify the General Services Administration (CXM), Washington, DC 20405, by letter, of its intention to discontinue the lease. An SF 120, Report of Excess Personal Property, clearly marked with the words "ADP Fund" shall be enclosed.

[40 FR 49330, Oct. 22, 1975. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-36.309-3 Transfer of ADP Fund equipment.

In followup to a telephone reservation of ADP Fund equipment, the requesting agency shall submit a letter of commitment to the General Services Administration (CDSDE), Washington, D.C. 20405. This letter shall include the lease term and the dollar amount of the lease agreement (as discussed), the agency point of contact (with address and telephone number), the shipping address and instructions, and the applicable agency appropriation symbol. GSA then will prepare the SF 122, Transfer Order Excess Personal Property, to initiate equipment shipment and will submit the lease agreement and the approved SF

122 to the requesting agency's designated official.

[43 FR 50178, Oct. 27, 1978]

§ 101-36.309-4 Guarantee of ADP Fund equipment.

(a) Agencies participating in the leaseback program shall pay charges for transportation of the equipment to the designated site(s); obtain an estimate of refurbishment to bring the ADP Fund equipment up to maintenance standards; and, within 6 months of the date that GSA sends the ADP Fund lease, forward the estimate of refurbishment to the General Services Administration (CDSDE), Washington, D.C. 20405.

(b) If GSA authorizes the leasing agency in writing to proceed with refurbishment, GSA will reimburse the agency in the amount authorized for the inspection and refurbishment costs upon receipt of an SF 1080, Voucher for Transfers Between Appropriations and/or Funds, or SF 1081, Voucher and Schedule of Withdrawals and Credits. GSA will not reimburse the leasing agency for transportation costs.

(c) If GSA decides not to authorize the agency to proceed with the refurbishment on a reimbursable basis, GSA will offer the equipment to the agency "as is" on a no-cost basis. If the agency accepts the offer, GSA will not reimburse the agency for transportation, inspection, or refurbishment costs, and the agency may use the equipment as long as required without reimbursement to GSA. If the agency does not accept this offer, GSA will reimburse the agency for transportation and inspection costs and will forward shipping instructions to the holding agency.

[39 FR 39042, Nov. 5, 1974, as amended at 41 FR 42954, Sept. 29, 1976. Redesignated at 43 FR 27191, June 23, 1978, and amended at 43 FR 50178, Oct. 27, 1978]

§ 101-36.309-5 Use of the ADP Fund for acquistion of exchange/sale ADPE.

(a) A Federal agency may seek use of the ADP Fund if it determines that the acquisition is economically advisable and the following requirements are met and can be certified:

(1) Subpart 101-35.2 (formerly FMC 74-5), § 101-36.403, FPMR Temporary Regulation E-42, and subpart 1-4.11 have been complied with.

(2) The agency does not have funds programed, nor can it reprogram funds for this purpose.

(3) The agency cannot divert funds planned for other ADPE procurements with lesser rates of return, if any, for this purpose.

(4) The proposed acquisition of a new system is consistent with the agency's presently authorized programs, and the need for the ADPE has been approved by OMB. (For purposes of this paragraph, a "new system" is defined as any acquisition other than purchase of presently installed ADPE with like equipment.)

(5) When the procurement action involves purchase of like equipment to replace installed systems, a study shall be made to determine that there is a continued economic justification for in-house ADPE as opposed to alternate sources such as the use of other agency equipment or commercial service bureaus. Agency studies should be consistent with the guidelines of OMB Circular A-76. As required, GSA will forward the agency certification to OMB.

(b) In followup to a telephone reservation (see § 101-36.305) on exchange/sale ADPE proposed to be acquired through the ADP Fund, the requesting agency shall submit a letter of intent to the General Services Administration (CDSDE), Washington, D.C. 20405. This letter shall include the projected period of equipment use; the requested terms of reimbursement, e.g., quarterly reimbursement for 3 years; the agency point of contact (with address and telephone number); and the shipping address, instructions, and fund citations for transportation and ADP Fund reimbursement. In addition, there shall be certifications which specify the Federal agency's compliance with the conditions listed in paragraph (a) of this section.

(c) The use of the ADP Fund for the acquisition of exchange/sale ADPE must be approved by GSA.

[43 FR 50178, Oct. 27, 1978]

§ 101-36.310 Use of excess ADPE on cost-reimbursement type contracts and project grants.

This section provides policies and procedures for use of excess ADPE on cost-reimbursement type contracts, grants, and project grants.

[43 FR 50178, Oct. 27, 1978]

§ 101-36.310-1 Use of excess ADPE on cost-reimbursment type contracts.

(a) Federal contractor requirements will be considered secondary to Federal agency requirements.

(b) Excess ADPE can be used to reduce the Government's contract costs and shall be considered by Federal agencies in their cost-reimbursement type contracts. For the purpose of this section, the term "cost-reimbursement type contract" means a type of contract providing for payment to the contractor of allowable costs incurred in the performance of the contract. The use of excess ADPE instead of payment offsets allowable costs and thereby reduces the total cost of the contract.

(c) If a contract provides for the use of excess ADPE, it shall also include adequate safeguards to insure the authorized use, maintenance, and return to Government custody of Government-furnished property. Accountability for such property shall be in accordance with contractual and agency procedures. Records shall be subject to audit by the contracting Federal agency and by the General Accounting Office.

(d) If a determination is made by the contracting Federal agency that the use of excess ADPE will result in a reduction of the contract cost to the Government or in an enhancement of the product or benefit of the contract, excess ADPE may be furnished to a contractor in accordance with § 101-36.306. The transfer order must certify the cost reduction or product enhancement and shall be executed by an authorized official of the contacting agency and forwarded to the General Services Administration (CDSDE), Washington, D.C. 20405.

(e) Generally, title to Government-furnished excess property remains vested in the Government; however, certain Federal agencies have specific statutory authority to vest title in contractors. When competing Federal requests are made on an item of excess ADPE, GSA will give the lowest priority to a request which vests title in the contractor.

(f) Upon expiration of a contract, Government-furnished ADPE may be reassigned to other Federal activities within the agency or to its cost-reimbursement type contractors.

[43 FR 50179, Oct. 27, 1978]

§ 101-36.310-2 Use of excess ADPE on grants: Eligibility.

Federal agencies are prohibited from obtaining excess ADPE to furnish to their grantees, except as follows:

(a) Excess ADPE which GSA determines is not needed for donation under subparts 101-44.2 and 101-44.4, may be transferred under section 608 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2358).

(b) Excess ADPE may be furnished through the U.S. Forest Service under section 203 of the Department of Agriculture Organic Act of 1944 (16 U.S.C. 580a) for use in connection with cooperative State forest-fire-control programs, provided that title to the ADPE is retained in the Government.

(c) Excess ADPE may be furnished in connection with grants to Indian tribes (as defined in section 3(c) of the Indian Financing Act (25 U.S.C. 1452(c))). Title may be vested in the grantee pursuant to specific statutory authority only.

(d) Excess scientific equipment (which includes ADPE as defined by § 101-36.301-1) may be transferred pursuant to section 11(e) of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1870(e)).

(e) Excess ADPE may be otherwise transferred with title by Federal agencies to their project grantees only when all the following conditions apply:

(1) The non-Federal recipient is an institution or organization which is either a public agency as defined in § 101-44.001-10 or is nonprofit and exempt from taxation under section 501 of the Internal Revenue Code of 1954, and

(2) The property will be furnished to the non-Federal recipient for use in connection with a federally sponsored project pursuant to a grant made for a specific purpose with a specific termination date, and

(3) Authorization for the project grantee to use excess property is contained in the grant document, and

(4) A determination has been made by the sponsoring Federal agency that the acquisition will result in a reduction of cost to the Government or in enhancement of the product or benefit from the grant, and

(5) The property will not be stockpiled by the project grantee but will be placed into use within a reasonable period of time (as determined by the granting agency) following acquisition, and

(6) The transfer of ADPE will be accomplished in accordance with § 101-36.306 and approved by an authorized Federal official of the granting agency, and

(7) The sponsoring Federal agency deposits in miscellaneous receipts of the U.S. Treasury an amount equal to 25 percent of the original acquisition cost (as documented by GSA) less the costs of care and handling.

[43 FR 50179, Oct. 27, 1978]

§ 101-36.310-3 Use of excess ADPE on project grants: Federal and project grantee responsibility.

The use of excess ADPE furnished to project grantees as provided in § 101-36.310-2 (d) and (e) is also subject to the following provisions:

(a) Grantee accountability for and disposal of such ADPE shall be governed by procedures established by the granting agency.

(b) Federal granting agencies shall limit the amount (in terms of original acquisition cost) of excess personal property transferred to a project grantee to the dollar value of the grant. Transfers in excess of this amount shall be fully justified. Federal approval or disapproval shall be made at a level above the project officer administering the grant.

(c) Federal granting agencies shall insure that provisions for use, maintenance, and return to Government custody or other disposal procedures for excess ADPE are included in the grant document.

(d) Federal grantor agencies shall develop and maintain procedures for the prevention or detection of situations involving the nonuse, improper use, or unauthorized disposal or destruction of excess ADPE loaned to or vested in grantees. This responsibility shall include compliance reviews, field inspections, and other enforcement procedures to monitor such property.

(e) Federal grantor agencies shall include the following information in their grant recordkeeping systems:

(1) The number of grantees using excess property;

(2) Total dollar value of property loaned to or vested in all grantees;

(3) Dollar value of property loaned to or vested in each grantee;

(4) Acquisition cost of loaned or vested items;

(5) Dollar value of each grant;

(6) Percentage of acquisition cost of loaned or vested excess property to the dollar value of each grant; and

(7) Date(s) of grant termination.

NOTE: Records are subject to audit by the Federal granting agency and by the General Accounting Office.

(f) Except when specifically authorized by statute to vest title in the grantee, Federal agencies, upon termination of a project grant in whole or in part, shall reassign Government-furnished ADPE to other Federal activities within the agency or to its cost-reimbursement type contractors. If no reassignment is made, the ADPE shall be reported as excess by the agency to GSA in accordance with § 101-36.4702 and held by the grantee in accordance with §§ 101-36.307 and 101-36.308.

(g) Property obtained by a Federal agency from excess sources for other purposes shall not subsequently be furnished to a project grantee. (See § 101-36.302(d).)

[43 FR 50179, Oct. 27, 1978]

Subpart 101-36.4 [Reserved]

Subpart 101-36.5—ADP Management Information System (ADP/MIS)

AUTHORITY: Executive Order 11717 (38 FR 12315, May 11, 1973).

SOURCE: 39 FR 8815, Mar. 6, 1974, unless otherwise noted. Redesignated at 43 FR 27190, June 23, 1978.

§ 101-36.501 Purpose.

This part prescribes the policy and criteria for the continuing development of a management information system (MIS) for automatic data processing (ADP) activities in the Federal Government.

§ 101-36.502 Supersession.

This part supersedes Office of Management and Budget (OMB) Circular A-83, dated October 5, 1971.

§ 101-36.503 Policy intent.

This part continues the requirement for developing, operating, and maintaining an ADP/MIS to assist the General Services Administration (GSA) and other Federal agencies in carrying out their management responsibilities for the most effective and efficient utilization of ADP.

§ 101-36.504 Applicability and scope.

(a) *Applicability.* The provisions of this part are applicable to all Federal agencies (as defined in Part 101-35, Appendix A having organizations (referred to herein as ADP units) that:

(1) Use or plan to use ADP equipment; or

(2) Acquire or plan to acquire ADP services offered from Government or other sources; or

(3) Perform ADP functions, such as coordinating ADP programs, and/or incur obligations in such activities as designing, developing, programing, and implementing ADP systems; reviewing, recommending, or selecting ADP equipment; approving the acquisition of ADP equipment or services; or providing ADP services on a consulting or project basis for agency ADP units; or

(4) Have Government contractors (including educational institutions and other not-for-profit contractors or organizations) who operate ADP equipment in the performance of work under reimbursement-type contracts or subcontracts when the equipment is:

(i) Leased, and full lease costs are paid by the Government under one or more contracts; or

(ii) Furnished to the contractor by the Government or is purchased by the contractor for the account of the Government or title will pass to the Government; or

(iii) Installed in Government-owned, contractor-operated facilities; or

(5) Have contracts involving any of the elements prescribed in this part.

Information required on ADP equipment that is contractor owned or leased will be reported by the agency having primary contract administration cognizance or, in the absence of an assignment of primary cognizance, by the agency having the preponderance of business with the contractor in terms of dollar value of contract sales.

(b) *Exemptions.* The following classes of ADP equipment are fully or partially exempt from the reporting requirements of this part.

(1) *Full exemptions.* (i) Analog computers even though a part of a hybrid system (The digital computer portion of the hybrid computer system is not exempt.); and

(ii) ADP equipment which is both integral to a combat weapon or space system and built or modified to special Government design.

(2) *Partial exemptions.* (i) Control systems equipment is exempt from system utilization reporting and from related summary ADP manpower and cost reporting but not from management/function/use and all other inventory information reporting;

(ii) Classified systems equipment is exempt from system utilization reporting and from related summary ADP manpower and cost reporting; and

(iii) Mobile systems equipment is exempt from system utilization reporting only.

[39 FR 8615, Mar. 6, 1974. Redesignated at 43 FR 27190, June 23, 1978, and amended at 43 FR 27191, June 23, 1978]

§ 101-36.505 Definitions.

(a) "Analog computer" is a computer which operates on continuous data as distinguished from discrete data. It translates physical conditions such as flow, temperature, pressure, angular position, or voltage into related mechanical quantities and uses mechanical or electrical equivalent circuits as an analog for the physical phenomenon being investigated.

(b) "Automatic data processing (ADP) equipment" for the purpose of this part includes general purpose and special purpose (built to Government specifications) electronic data processing equipment and punch card accounting machines irrespective of use, application, or source of funding.

(c) "Classified system equipment" is ADP equipment, the physical location of which is classified.

(d) "Control systems equipment" is ADP equipment which is an integral part of a total facility or larger complex of equipment and has the primary purpose of controlling, monitoring, analyzing, or measuring a process or other equipment.

(e) "Hybrid computer" is a computer for data processing using both analog representation and discrete representation of data.

(f) "Digital computer" is a computer that operates on discrete data by performing arithmetic and logic processes on these data.

(g) "Hardware system" is an operational or managerial entity of component units (Central Processing Units [CPU's], input/output devices, storage units, terminals, communications devices, etc.).

(h) "Management/function/use classifications" are specific functional areas identified, defined, and coded by Federal agencies in a manner that best describes each agency's mission and program objectives.

(i) "Mobile systems equipment" is ADP equipment installed on ships, planes, vans, or with military units which are deployed or subject to deployment in areas of active military operations against an enemy force.

§ 101-36.506 Policies and procedures.

(a) *Objective.* The ADP/MIS will provide an inventory and financial management information data base that will:

(1) Facilitate the management of ADP resources and data networks by Federal agencies;

(2) Assist OMB, GSA, the Civil Service Commission, and the Department of Commerce in carrying out their specific Government-wide responsibilities relating to ADP as delineated in OMB Circular A-71, Responsibilities for the administration and management of automatic data processing activities;

(3) Respond to the requirements of OMB Circular A-11, Preparation and submission of annual budget estimates;

(4) Provide for the identification and evaluation of ADP obligations according to the major management/function/use classifications which they support (e.g., the system will identify that portion of the total ADP expenditures of a department or agency directly attributable to major activities such as supply, agricultural production capacity, isotope development, military pay, etc.); and

(5) Provide for future development of additional subsystems which may become a part of the ADP/MIS or may be separate elements in the overall ADP/MIS. These future subsystems will be developed under Office of Federal Management Policy, GSA, direction with participation of involved agencies as the need arises.

(b) *ADP/MIS structure.* The ADP/MIS is composed of two major systems: First, inventory management data; and second, financial management data. Both of these major systems will be composed of a series of subsystems (as shown below) designed to meet specific information requirements.

(1) *ADP inventory management data system.* This system is based on a set of Federal agency reports which feed the computer-based ADP inventory management data bank maintained by the Automated Data and Telecommunications Service (ADTS), GSA, for the use of all Federal agencies. The essential subsystem of this data bank is a perpetual inventory of all Federal ADP equipment by ADP unit. Other subsystems include:

(i) Manpower;

(ii) Cost;

(iii) Hardware system utilization; and

(iv) Distribution of system use according to management/function/use classifications.

Overall policy direction for this system is in this part, but detailed ADP/MIS reporting procedures are issued separately by ADTS.

(2) *ADP financial management data system.* This system is based on a set of agency reports providing basic financial data. Subsystems are:

(i) Obligations for capital investments, in-house operations, contract services, and intra/inter-agency services;

(ii) Man-years; and

(iii) Summary totals of computers and systems.

Requirements for agency reporting are the responsibility of OMB and are being developed in cooperation with the Office of Federal Management Policy. These instructions will be issued at a later date and will be in the form of an addition to this part. Other ADP financial management data requirements of OMB will remain in effect unless they are specifically rescinded.

(3) *Dissemination and release of ADP data bank information.* Coordination by GSA with the agency concerned is required prior to the release of data relating to cost, manpower, hardware system utilization, and management/function/use of that particular agency, except that individual agencies may, if they so desire, delegate full or partial authority to ADTS to release such data without prior coordination.

§ 101-36.507 Responsibilities.

(a) The Automated Data and Telecommunications Service GSA, is responsible for:

(1) Approving the development and implementation of reporting subsystems and approving the reporting procedures for carrying out the provisions of this part related to the ADP inventory management data system; and

(2) Coordinating the implementation of ADP financial management data system reporting requirements developed by OMB.

(b) The Automated Data and Telecommunications Service, GSA, is responsible for:

(1) Developing and issuing the necessary reporting procedures for carrying out the provisions of this part relating to inventory management data which are part of the data bank, including inventory of hardware, manpower, cost, hardware system utilization, management/function/use, and such other subsystems as may be approved for implementation;

(2) Establishing the hardware inventory on a perpetual basis;

(3) Maintaining the subsystems designated as part of the data bank;

(4) Responding to requests from agencies and others for data from the data bank; and

(5) Developing and/or participating in the development of reporting subsystems.

(c) All agencies are responsible for:

(1) Developing internal implementing instructions to carry out the objectives of this part;

(2) Furnishing the necessary data on an accurate and timely basis to comply with this policy directive;

(3) Ensuring the use of these data to improve management practices; and

(4) Recommending such changes, additions, or deletions to the ADP/MIS as they deem necessary to improve the effectiveness of the system.

[39 FR 8615, Mar. 6, 1974. Redesignated at 43 FR 27190, June 23, 1978, and amended at 43 FR 27191, June 23, 1978]

§ 101-36.508 Reporting requirement.

(a) *ADP inventory management data.* The base date for the reporting of inventory management data was June 30, 1971. Changes to these data will be submitted as they occur. Agency reports will be transmitted in accordance with the reporting schedule set forth in the ADP/MIS Reporting Procedures to:

General Services Administration (CPM)
Washington, DC 20405.

(b) *ADP financial management data.* Reporting requirements will be developed in cooperation with OMB and will be issued at a later date.

Subpart 101-36.6—Assistance to Federal Agencies—[Reserved]

Subpart 101-36.7—Environmental and Physical Security

SOURCE: 45 FR 53152, Aug. 11, 1980, unless otherwise noted.

§ 101-36.700 Scope of subpart.

This subpart provides guidelines applicable to Federal agencies concerning environmental and physical security of ADP facilities. Security management provisions are in Subpart 101-35.3.

§ 101-36.701 Definitions.

Terms as used in the subpart are defined as follows:

(a) "ADP facility" means an area, usually enclosed, containing a computer, other operational ADPE, and related supporting ADP resources that are essential to the operation of an ADP system. This definition generally excludes areas containing only ADP peripheral devices that cannot use, alter, access, or affect sensitive data. The area needing a degree of protection includes areas where there are terminals capable of displaying sensitive data or that can alter, change, or affect data.

(b) "ADP facility environment" means the aggregate of conditions that influence the performance of the ADP facility, personnel, and equipment.

(c) "ADP facility security" means those technological safeguards, physical security measures, and administrative procedures applied to an ADP facility and its equipment, software, data, and operational and user personnel, in order to ensure the protection of organizational assets, proprietary data, market information, individual privacy, etc.

(d) "Physical security" means the sum of construction features and the use of locks, safeguards, badges, and similar measures to control access to an ADP facility (location) as well as the measures required to protect personnel and property, including the structures housing the computer, their contents, and related equipment, from but not limited to damage by accident, fire, loss of utilities, environmental hazards, and unauthorized access.

§ 101-36.702 ADP facility environment.

An ADP facility environment conducive to both the protection of the Government's investment in ADP resources and the effective performance of the ADP function is essential. Care should be exercised in the selection of the ADP facility location to ensure the protection of supporting utilities and the minimization of natural disaster probabilities.

§ 101-36.702-1 Temperature and humidity.

(a) Wherever possible, manufacturers' specifications for data processing equipment and Federal energy conservation considerations shall be used to determine the optimum temperature and humidity ranges for the computer room. The ADPE should be operated within those limits. To prevent excessive temperature and humidity fluctuation, all doors to the computer room shall be kept closed as appropriate.

(b) An adequate warning system should be installed and maintained to warn of near-limit conditions so that prompt action can be taken to prevent equipment damage. Recording instruments (24-hour or 7-day) should also be located and installed to provide a true record of temperature and humidity. The recorders should be located where they will monitor the air leaving the ADPE area. The recorders should be checked frequently for accuracy. Only the building manager, the ADP facility manager, or another official controlling or operating the building should be permitted to regulate the computer room environmental controls.

§ 101-36.702-2 Lighting and electrical service.

Adequate lighting of the computer room should be provided and maintained, taking into account Federal energy conservation considerations. An uninterruptible power source may be needed to support the system. Voltage regulators or other electronic means may be necessary to prevent serious fluctuations in current. Emergency lighting shall be provided as necessary to ensure safe exit. Periodic checks should be made of the emergency lighting and the auxiliary power to ensure performance operability. The minimum acceptable level of illumination is 40 foot-candles as measured 40 inches above the floor at any point in the room.

§ 101-36.702-3 Cleanliness.

(a) A routine cleaning schedule should be established and followed. Personnel assigned to clean the computer room should be permitted to do so only after receiving proper training in the cleaning of these areas. An authorized representative of the ADP facility shall be present during the cleaning operations.

(b) Noncombustible wastebaskets with self-closing or tight-fitting covers should be provided in the computer room. Burn bags required for security purposes should be enclosed in metal bulk-refuse containers with self-closing tops if the room is sufficiently secure; otherwise, the burn bags should be kept in safes.

(c) Contributors to dust or lint conditions such as outer coats and coat racks should not be permitted in the computer room. Venetian blinds, throw rugs, etc., that accumulate dust and static electricity should not be used in computer rooms.

(d) Air-conditioning filters should be checked and cleaned or replaced frequently.

(e) Floors should be kept polished and, if necessary, buffed to a hard finish. Waxes which powder or flake and steel wool buffing pads should not be used. Care should be exercised when damp-mopping or waxing to avoid seepage of liquids through the joints of raised floors.

(f) Carpeted areas should be vacuumed frequently to prevent accumulation of dust. Antistatic carpeting or spray should be used to prevent the buildup and discharge of static electricity.

§ 101-36.702-4 Personnel.

(a) Only those authorized persons as defined by the agency security program are permitted in the ADP facility. Notice of this restriction should be posted at each entrance. Authorized Personnel shall be positively identified through the use of local access control procedures. Personnel should be well trained in these facility, environment, and security regulations and procedures.

(b) Smoking, eating, and drinking shall not be permitted in the computer room. Signs stating these restrictions should be posted at each entrance.

(c) Appliances and equipment not essential to the functioning of the system are prohibited in the ADP facility. Examples of these items are electric razors, coffee pots, hot water pots, and hotplates.

§ 101-36.702-5 Precautionary measures.

False ceilings that conceal steam and water pipes shall be checked regularly for discoloration or other indication of a leak in the pipes. Any irregularities should be reported immediately to the building manager or other official controlling or operating the building so that prompt remedial action may be taken. Work scheduled for the ceiling area, whether from above or below; shall be a coordinated effort to provide maximum safety for personnel and equipment and to minimize interruption of operations. All other situations that are suspect as being potentially damaging to life or property shall be reported to the appropriate authority and liaison maintained until corrective action has been taken. Plastic sheets should be readily available to cover at least the CPU and those peripheral units susceptible to water damage. Equipment that has been exposed to water should not be activated until completely dry.

§ 101-36.703 Firesafety.

Guidelines concerning firesafety practices are provided in § 101-20.109 and in the National Fire Prevention and Control Administration's Handbook RP-1, Standard Practice for the Fire Protection of Essential Electronic Equipment Operations. Employees should receive periodic training regarding emergency actions. Training should include power shutdown and startup procedures, use of emergency power, the fire detection system, use of fire extinguishers, building evacuation, use of alarms, etc.

§ 101-36.703-1 Fire prevention—master control switches.

Master control switches that shut off all power to the computers and peripheral equipment should be so installed as to override all other electrical controls used during normal computer operations. Facilities with air-conditioning systems not designed for smoke removal may include their air-conditioning system on the same master switches. These switches should be located near each normally used entrance to the computer room and should be conspicuously labeled and adequately protected to prevent accidental shutoff. Master control switches for systems that process sensitive applications should be equipped to require a sequential shutdown routine.

§ 101-36.703-2 Portable firefighting equipment.

Agencies shall ensure that a sufficient number of fire extinguishers are available in the ADP facility. Each fire extinguisher shall be prominently displayed in an unblocked, easily accessible area, so that no person in the area will have to travel more than 50 feet to obtain a fire extinguisher. Only carbon dioxide fire extinguishers shall be used on electrical fires; no other Class C (electrical nonconducting) extinguishing agents should be used. Fire extinguishers using water should be used on fires involving ordinary combustible materials, such as wood, paper, cloth, and plastics. Extinguishers containing water shall not be used on fires involving electrical equipment because this use can result in injury or death. All fire extinguishers shall be regularly inspected and properly maintained to ensure that they are in good working order. The number of types of fire extinguishers available in the ADP facility will be in accordance with section 704 of the National Fire Prevention and Control Administration's Handbook RP-1.

§ 101-36.703-3 Smoke detection.

Automatic smoke detection equipment capable of early warning detection shall be installed in all areas as required in RP-1 and NFPA No. 72 E, Automatic Fire Detectors.

§ 101-36.704 Contingency planning.

Contingency plans should be developed to deal with events that could prevent normal ADP operations and interfere with the accomplishment of an agency's mission. The contingency plan should, at a minimum, address the following elements:

(a) The appropriate response to a fire, flood, civil disorder, natural disaster, or bomb threat, to protect lives, limit damage, and minimize the impact on ADP operations.

(b) The development of backup procedures to ensure that essential ADP operational tasks can be conducted after disruption to the primary ADP facility. Arrangements should be made for a backup facility, including the needed files, programs, paper stocks and preprinted forms, etc., to operate the essential systems in the event of a total failure.

(c) Recovery procedures to permit rapid restoration of an ADP facility following physical destruction, major damage, or loss of data. To the extent possible, contingency plans should be tested on a recurring basis and modified as changes in the ADP facility workload dictate. Critical applications should be operated on the backup system to ensure that it can properly process this workload. Additional information on contingency planning is contained in FIPS PUB 31, Guidelines for Automatic Data Processing Physical Security and Risk Management.

§ 101-36.705 Security of ADP facilities.

Agencies are required to organize and maintain an ADP system security program to ensure the protection, confidentiality, and integrity of the Government's investment in the ADP system, including associated ADPE, data, computer media, and software. (See Subpart 101-35.3 of this title for security management provisions.) Agencies' internal directives and procedures for the physical security of computer facilities should consider the standards and guidelines that appear in the following Department of Commerce publications:

(a) FIPS PUB 31, Guidelines for Automatic Data Processing Physical Security and Risk Management;

(b) FIPS PUB 39, Glossary for Computers Systems Security;

(c) FIPS PUB 41, Computer Security Guidelines for Implementing the Privacy Act of 1974;

(d) FIPS PUB 46, Data Encryption Standard;

(e) FIPS PUB 48, Guidelines on Evaluation of Techniques for Automated Personnel Identification; and

(f) FIPS PUB 65, Guideline for Automatic Data Processing Risk Analyses.

NOTE: NBS Publications List 91 outlines a number of NBS computer security publications.

§ 101-36.706 Physical security for ADP facilities.

Agencies shall provide physical security for their ADP facilities at levels consistent with the agency security program. Emergency requirements and operating procedures shall be considered when planning physical protective measures. The Office of Federal Protective Service Management (mailing address: General Services Administration (PSO), Washington, DC 20405) can furnish assistance regarding the availability and use of security hardware and alarm systems.

Subpart 101-36.8—Federal Data Processing Centers

SOURCE: 35 FR 18971, Dec. 15, 1970, unless otherwise noted. Redesignated at 43 FR 27191, June 23, 1978.

§ 101-36.800 Scope and applicability of subpart.

This subpart describes the services available from Federal Data Processing Centers (FDPC's) and prescribes the policy and procedures for obtaining such services. The provisions of this subpart are applicable to all Federal agencies.

§ 101-36.801 Definitions.

As used in this subpart 101-36.8, the following terms shall have the meanings set forth in this § 101-36.801.

§ 101-36.801-1 Federal Data Processing Center.

"Federal Data Processing Center" (FDPC) means a data processing center, operated either by GSA or by another agency under a delegation of authority from the Administrator of General Services, performing a variety of data processing and related services for two or more Federal agencies.

§ 101-36.801-2 Detailed automatic data processing systems design.

"Detailed automatic data processing systems design" means the development of the technical data processing details, such as computer program design (mainline and modules) processing sequences, internal computer audit trails, data processing related edits, data processing housekeeping functions, internal computer logic, and related matters from the point of data conversion to machine sensible form or data entry for an online system to the point of release of output to the user, required to meet the user requirements and specifications developed in a general systems study.

§ 101-36.802 General.

An FDPC is located at each GSA regional office. Additional FDPC's may be established where feasibility studies indicate a need exists. GSA operated FDPC's are financed by the ADP Fund. FDPC's operated by other agencies under a delegation of authority may be, but are not necessarily, financed by the ADP Fund. In either instance, mutually satisfactory arrangements for reimbursing the FDPC for services rendered will be worked out between the requesting agency and the FDPC.

§ 101-36.803 Services available from FDPC's.

Services available from FDPC's include machine time, software, data conversion, and personnel such as programers and systems analysts capable of performing detailed ADP systems design. GSA regional ADP sharing exchanges periodically issue ADP Sharegrams which announce the availability of specific services and associated costs.

§ 101-36.804 Point of contact.

(a) Agencies that require any of the services available from FDPC's which have not been satisfied through the procedures set forth in § 101-36.203 should contact the appropriate GSA regional ADP sharing exchange as shown in Subpart 101-36.48.

(b) Agencies desiring assistance in the performance of general systems studies, as defined in § 101-11.1004 of this chapter, may request such assistance from the National Archives and Records Service in accordance with the provisions of § 101-11.1005 of this chapter.

§ 101-36.805 Federal Computer Performance Evaluation and Simulation Center.

Information concerning the Federal Computer Performance Evaluation and Simulation Center is contained in Subpart 101-36.14.

[38 FR 22228, Aug. 17, 1973. Redesignated at 43 FR 27191, June 23, 1978]

Subpart 101-36.9—ADP Collocation and Consolidation Program

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486 and sec. 111, 79 Stat. 1127; 40 U.S.C. 759.

SOURCE: 38 FR 16223, June 21, 1973, unless otherwise noted. Redesignated at 43 FR 27191, June 23, 1978.

§ 101-36.900 Scope of subpart.

This subpart sets forth policy and procedures on collocation or consolidation of existing automatic data processing (ADP) facilities and the location of proposed ADP facilities.

§ 101-36.901 Applicability.

(a) The provisions of this subpart are applicable to all Federal agencies (as defined in § 101-36.201(a)) having ADP facilities or resources.

(b) The provisions of this subpart are not applicable to Government contractors.

§ 101-36.902 Definitions.

As used in this subpart 101-36.9, the following terms shall have the meanings set forth in this § 101-36.902.

§ 101-36.902-1 Collocation.

"Collocation" means the act of locating or relocating an ADP facility contiguous to or in another existing or planned ADP facility.

§ 101-36.902-2 Consolidation.

"Consolidation" means the act of merging separate groupings of ADP resources into one ADP entity through joint utilization, establishment of a Federal Data Processing Center (defined in § 101-36.801-1), or through some other similar cooperative arrangement.

§ 101-36.902-3 Joint utilization.

"Joint utilization" means the use by two or more organizations, under an agreement, of the same ADP facility with either a common staff or separate staffs, where the data processing needs of the partners are served exclusively.

§ 101-36.902-4 ADP facilities.

"ADP facilities" means enclosed space having such real property features as air-conditioning, power supply, grounding systems, and elevated floors required for the installation of automatic data processing equipment (ADPE), as defined in § 101-36.402-1; the vaults and other storage areas, including protected tape storage areas for emergency preparedness; and the office space for programing, maintenance, and administrative support functions required in an ADP operation.

§ 101-36.902-5 Collocation or consolidation study.

"Collocation or consolidation study" means a review of specifically selected ADP facilities or resources by an agency, with or without GSA participation, or by two or more agencies with GSA participation to determine whether the program objectives set forth in § 101-36.903 are feasibly attainable.

§ 101-36.903 Objectives of the ADP collocation and consolidation program.

The objectives of the ADP collocation and consolidation program are to reduce the cost, enhance the effectiveness, and improve the efficiency of Government data processing operations affected by this Subpart 101-36.9, through:

(a) Reviewing the requirements for additional Government ADP units and satisfying the need for such requirements by using more fully the resources of units already in existence;

(b) Consolidating installations which are geographically separated by means of telecommunications networks; and

(c) Increasing utilization of the resources committed to Government data processing by replacing a number of installations with a Federal Data Processing Center or a joint-use facility.

§ 101-36.904 Intra-agency collocation or consolidation actions.

(a) Actions by Federal agencies shall include:

(1) Continually reviewing their internal ADP operations to determine whether optimum economy, effectiveness, and efficiency are being achieved;

(2) Conducting studies to ascertain whether the collocation or consolidation of their ADP facilities or resources would be economically advantageous, would improve program effectiveness, or would increase efficiency of operations. (In this connection, the factors shown in § 101-36.905-6 may be applied.);

(3) Implementing findings which indicate collocation or consolidation to be feasible; and

(4) Notifying GSA of the estimated starting and completion dates of an inhouse collocation or consolidation study to preclude undertaking by GSA of a related interagency study.

(b) When requested by an agency to participate, GSA actions will include:

(1) Providing assistance in the conduct of a feasibility study;

(2) Giving advice on implementation of an agency's decision to collocate or consolidate; and

(3) Coordinating within GSA a requirement resulting from an intraagency collocation or consolidation action and expediting approval of that requirement.

§ 101-36.905 Interagency collocation or consolidation actions.

Interagency collocation or consolidation possibilities shall be considered when two or more Federal agencies have or plan to have ADP facilities or resources in the same building or adjacent buildings that are under the control of GSA.

§ 101-36.905-1 Exemptions.

An ADP facility which is located in a classified site or which has ADPE dedicated to the real-time control of a physical process is exempt from the provisions of this § 101-36.905.

§ 101-36.905-2 Study group.

A study of the feasibility of an interagency collocation or consolidation shall be conducted by a study group chaired by GSA and composed of representatives from GSA and the affected agencies.

§ 101-36.905-3 Initiation of a feasibility study.

An interagency collocation or consolidation feasibility study may be initiated as the result of:

(a) An agency's request for assistance made to the Agency Services Coordination Division at the appropriate GSA regional ADP sharing exchanges listed in § 101-36.4801 or to the Office of Agency Assistance, Planning, and Policy (CP), Automated Data and Telecommunications Service, GSA, Washington, D.C. 20405;

(b) An agency's application for space to house a new computer installation or a substantial amount of additional space for an existing computer installation as provided in § 101-20.102-5;

(c) Preparations for making a prospectus for a new Federal building;

(d) Submission of an agency procurement request (APR) (see § 101-36.402-6) for a computer system consisting of one or more central processing units (CPU's) and related equipment; or

(e) An agency's recommendation that such a study be made.

§ 101-36.905-4 Arrangements and guidelines for conducting a feasibility study.

(a) GSA will inform affected agencies of a proposal to initiate an interagency feasibility study. A date for the study to begin will then be set by mutual agreement.

(b) GSA and affected agencies shall assign personnel to the study group.

(c) Salaries and any travel expenses of the study participants shall be paid by the employing agency.

(d) Costs incidental to a study, such as costs of supplies and duplicating services, will be borne by GSA.

(e) To the extent that circumstances permit and are applicable, the study group will consider concurrently the requirements for hardware/software, space, and site preparation.

§ 101-36.905-5 Effect on procurement process.

If studies are to be made but procurements are already in process or an APR has been submitted, GSA and the affected agencies shall determine on the basis of time and other factors whether the procurement should be allowed to proceed pending completion of the study. If it is determined to proceed or not to defer a procurement already in process, the processing shall continue to a point short of an award with the understanding that the requirement will be canceled if collocation or consolidation is determined to be feasible unless the acquisition is needed for the new facility. However, if the planned installation date of an acquisition will be reached before the projected completion date of a study, GSA will accelerate the study sufficiently to insure that installation of equipment will not be deferred.

§ 101-36.905-6 Determining feasibility.

The following factors shall be considered by the study group in determining the feasibility of a proposed interagency collocation of consolidation action.

(a) Impact of a collocation or consolidation arrangement on the ability of agencies to effectively and efficiently accomplish their missions;

(b) Provision of services which are responsive to priority and security requirements of the affected agencies;

(c) Comparison of costs of the separate facilities with applicable costs of the proposed facility for space, site preparation, moving, ADP equipment, communications equipment and services, transportation, data security and handling, staffing, and any other factor considered by the study group to be pertinent; and

(d) Potential for cost avoidance through increased opportunities for sharing ADP resources and through use of centralized supply and maintenance services.

§ 101-36.906 Action when mutual agreement is not reached.

GSA and the affected agencies shall review the findings of the study group. In the absence of mutual agreement as to whether the findings indicate an interagency collocation or consolidation to be feasible, the dissenting agency(ies) shall be guided by the provisions of § 101-36.001. Where mutual agreement is not reached concerning § 101-36.905-5, above, the provisions of § 101-36.001 also shall apply.

§ 101-36.907 Implementation of a decision to collocate or consolidate.

(a) When a decision is made to establish an interagency collocated or consolidated ADP facility in GSA-controlled space, a task force shall be assembled to develop plans and provide for the implementation of the decision. GSA and each affected agency shall assign personnel to the task force.

(b) The task force shall submit implementing schedules, including schedules for needed interagency agreements, to GSA and to the affected agencies at the earliest possible time.

(c) GSA will provide the facilities required, including foreseeable expansion needs, to activate a collocated or consolidated facility.

(d) The provisions of subparts 101-36.3 and/or 101-36.4 shall apply to the acquisition of additional ADP hardware and related unbundled software needed to equip a collocated or consolidated facility. Acquisition shall be made by GSA or the affected agency(ies) through the transfer of excess property procurement financed by the ADP Fund, and/or procurement financed with appropriated funds of the affected agencies.

§ 101-36.908 Review of a collocated or consolidated facility.

(a) A review of an interagency collocated or consolidated facility shall be made after having been operational for a period of 12 months and annually thereafter if it is mutually considered by GSA and the affected agencies to be advisable. To the extent practicable, the review shall be made by the membership of the task force referred to in § 101-36.907.

(b) GSA or an affected agency may initiate a facility review. The initiating party shall notify the others of its opinion that a review appears to be in order and give the reasons therefor in writing. A mutually acceptable date shall then be set for beginning the review.

(c) If evaluation of the findings of a review discloses that no significant cost avoidance has been realized by the collocation or consolidation action, or that the efficiency of operations and/or the effectiveness of mission programs have been severely hampered or impaired, the services of the ADP facility may be discontinued or curtailed. In the event a decision is made to discontinue or curtail services, a date shall be agreed to by GSA and the affected agencies for cessation or limitation of services sufficiently in advance of the action to permit an orderly return to the previous operational status or to permit the development of alternative arrangements acceptable to all parties.

(d) In the instance of an intraagency collocation or consolidation action taken under provisions of § 101-36.904, an agency may request GSA participation in a review and evaluation by contacting one of the officers identified in § 101-36. 905-3(a).

Subpart 101-36.10—ADP Records Management

SOURCE: 36 FR 6498, Apr. 6, 1971, unless otherwise noted. Redesignated at 43 FR 27191, June 23, 1978.

§ 101-36.1000 Scope of subpart.

This subpart contains cross-references to pertinent sections of Part 101-11, Records Management, which relate to ADP records management and source data automation.

§ 101-36.1001 ADP records management function.

The regulations relating to the objectives, responsibilities, requirements, and implementation of this function are located in § 101-11.210.

§ 101-36.1002 Source data automation in paperwork systems.

The regulations relating to the definition, criteria for use, application of, and the need for source data automation can be found in Subpart 101-11.9.

Subpart 101-36.11—Data Communications Support for ADP Systems

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

SOURCE: 37 FR 932, Jan. 21, 1972, unless otherwise noted. Redesignated at 43 FR 27191, June 23, 1978.

§ 101-36.1100 Scope of subpart.

This subpart provides policy guidance to Federal agencies on determining the need for data communications as part of, or as an adjunct to, a data processing capability.

§ 101-36.1101 Applicability.

The provisions of this subpart are applicable to all Federal agencies.

§ 101-36.1102 Definitions.

As used in this Subpart 101-36.11, the following terms shall have the meaning as set forth in this § 101-36.1102.

§ 101-36.1102-1 Data communications.

"Data communications" means the transfer, by electronic or electrodynamic means, of input data from the point of origin to a computer; of output from a computer to a user; or of record data between two or more computers not located at the same site and includes offline data transmission.

§ 101-36.1102-2 Communications study.

"Communications study" means an indepth examination of the means by which a data transmission requirement can be satisfied in the most efficient and economical manner, including line, software, and equipment requirements and projected costs.

§ 101-36.1103 GSA assistance.

Requests for assistance regarding the provisions of this Subpart 101-36.11 should be directed through the appropriate GSA regional ADP sharing exchange, as shown in § 101-36.48.

§ 101-36.1104 Preliminary consideration of data communications requirements.

The Office of Management and Budget obliges agencies to make a general systems study before determining whether data processing equipment should be procured and to provide for the orderly programing and engineering of Government telecommunications facilities, including data transmission. Such a study, although it need not be of the same scope or magnitude, should precede a determination of the need to change or upgrade an ongoing data processing system. During the course of a general systems study, consideration should be given to any requirements for data communications in support of the system. If the results of this consideration are negative, the study should so state. If the results of such consideration are affirmative, a data communications study should be made. Final determination of need or of the equipment, techniques, or facilities or systems to be used to satisfy such need shall not be made without a data communications study. However, there should be reasonable assurance of the need for data communications before embarking on such a study. Data communications will usually be required if the system to be proposed includes or establishes any or all of the following:

(a) A real-time or an online computer system.

(b) A time-sharing system.

(c) A requirement for remote locations to provide input to or obtain output from a computer in a time frame which cannot be satisfied by nonelectronic communications means.

(d) A data base of current and usable information which must be accessed with a high degree of immediacy from remote locations or by many users.

(e) Two or more computers, not located at the same site, with a requirement for backup, for load balancing, or for data transfer between them.

(f) Other situations, not covered by the foregoing, which clearly indicate the probability of a data communications requirement.

§ 101-36.1105 Data communications study assistance.

The Automated Data and Telecommunications Service, General Services Administration, operates extensive communications networks for the Government and has personnel available to assist agencies in the conduct of data communications studies. Agency requests for assistance concerning this subpart should be addressed to the General Services Administration (CP), Washington, D.C. 20405.

[38 FR 8512, Apr. 3, 1973. Redesignated and amended at 43 FR 27191, June 23, 1978]

§ 101-36.1106 Factors for consideration.

The data communications study includes a detailed analysis of the proposed data processing system and the environment within which it will operate and a determination as to the feasibility and economy of data communications under the circumstances. Also, such a study indicates the additional equipment and the type and number of communications lines which are estimated to be required; the impact on the format of data and data banks, codes to be used and programing required; and, most significantly, the important elements of cost. The factors to be examined include the following:

(a) Data proposed to be communicated.

(b) Points between which data is proposed to be communicated.

(c) Volume of data involved, average loads, peak loads, and blocking factors.

(d) Time frame within which the transmission will be required and a profile of time/volume requirements.

(e) Codes to be used and the medium in which the data will be made available for transmission and in which it must be received; e.g., ASCII, BAUDOT, keyboard, paper tape, magnetic tape, cards, display devices, and printers.

(f) Accuracy required and the necessity for employment of error detection and correction techniques.

(g) Security requirements.

(h) System redundancy and backup requirements developed from total system objectives and operational criteria.

(i) Effect on other system data transfer requirements.

§ 101-36.1107 Report of data communications study group.

(a) The study group should prepare a written report detailing the data communications system which most economically and effectively satisfies the requirements of the proposed data processing system. The report should refer to the factors analyzed, including those specified in § 101-36.1106, and in addition, identify the following factors:

(1) Type of service.

(2) Line requirements.

(3) Hardware and software requirements.

(4) Error detection/correction techniques required.

(5) Time- or event-dependent statement of additions to the communications capability required for the handling of expected increases in workload or in demands on the system.

(6) Space requirements.

(7) Detailed statement of estimated one-time and recurring costs.

(8) Cryptographic security requirements.

(9) Noncryptographic security requirements.

(10) Rationale why data communication via electronic means is required as opposed to mail or courier service.

(11) Access security.

(12) Other facilities in the area which can accommodate the requirement within their existing or enhanced capabilities.

(13) Review of existing communications capability.

(b) The report should be transmitted to the systems study group for analysis and recommendation. Such analysis should consider the extent to which the proposed data communications system will satisfy the requirements of the proposed data processing system and should include a cost/benefit study to determine whether to include or exclude data communications from the proposed data processing system.

§ 101-36.1108 Approval of data communications systems.

Except for those agencies specifically exempted under the provisions of § 101-37.102, executive agencies are to obtain approval from the Automated Data and Telecommunications Service for all new installations and major changes in existing telecommunications facilities. (See § 101-37.201-1.) However, irrespective of any such exemptions, all requirements for data communications systems required as part of or as an adjunct to a data processing system shall be submitted to GSA in accordance with the provisions of Subpart 101-36.4.

[38 FR 8512, Apr. 3, 1973. Redesignated at 43 FR 27191, June 23, 1978]

Subpart 101-36.12—Care and Handling of Magnetic Computer Tape

AUTHORITY: Secs. 111 and 205(c), 79 Stat. 1127; 40 U.S.C. 759 and 63 Stat. 390; 40 U.S.C. 486(c).

SOURCE: 37 FR 8879, May 2, 1972, unless otherwise noted. Redesignated at 43 FR 27191, June 23, 1978.

§ 101-36.1200 Scope of subpart.

This subpart provides guidelines to be used by Federal agencies in the care and handling of magnetic computer tape.

§ 101-36.1201 Applicability.

The provisions of this subpart are applicable to all Federal agencies.

§ 101-36.1202 GSA assistance.

Assistance regarding the guidelines in this subpart is available from the General Services Administration (CP), Washington, DC 20405.

[38 FR 8512, Apr. 3, 1973. Redesignated and amended at 43 FR 27191, June 23, 1978]

§ 101-36.1203 Magnetic computer tape.

Magnetic computer tape is a thin strip of oxide-coated plastic material used in certain computer systems for storage of large volumes of data. In use, the tape is passed across a read/write head of a computer input/output device and magnetic indications or bits are placed in the tape in the form of magnetically polarized spots. The intimacy between the tape and the read/write head is critical. For example, when used at 800 bits per inch the separation should not exceed 0.00014 inch. If the separation is increased to 0.00046 inch, the tape will not read or write. That amount of separation can easily be caused by foreign particles on the tape or damage to it. It is, therefore important that the procedures provided in this Subpart 101-36.12 for the care and handling of magnetic computer tape be adhered to as a means of minimizing unproductive downtime and related costs caused by dirty or damaged tapes.

§ 101-36.1204 Magnetic computer tape errors.

(a) A point at which tape will not read or write is called an "error." This could be an area where the oxide is missing; the tape is wrinkled, creased, or has edge damage; or where something has adhered to the oxide which forces the surface of the tape to be moved away from the read/write head. An ADP operating system (software) will normally respond to an error condition by stopping the tape, backspacing, and attempting repeatedly to read or write. This is a costly operation even if recovery is possible without rerun. In a typical situation it would be more economical to use a new tape than to run 50 passes of a tape with 20 recoverable errors. The cost of reruns necessary by nonrecoverable errors may drastically reduce the acceptable number of error conditions which should be tolerated on tapes for particular applications.

(b) For increased effectiveness and efficiency in ADP operations, agencies should maintain statistics on tape errors for each magnetic computer tape used. Statistics should also be collected for each tape drive to assist in spotting individual tape drives that are damaging tape or causing false indications of tape errors. Data on the number of tape errors and the number of retries made in an effort to force the tape to read or write at an error location can be used (1) to determine whether a tape containing errors should be discarded or retained and restored by cleaning; and (2) as an indication of dust and other environmental conditions within the installation requiring corrective action.

§ 101-36.1205 Care and handling of magnetic computer tape.

Reels of magnetic computer tape shall be handled only when necessary since each handling increases the possibility of damage to the tape. While it is inevitable that magnetic computer tape will acquire errors, tape errors can be minimized by proper handling. Canisters or wrap-around rings should be used to protect the reel and tape during handling and storage. Maximum protection is afforded by use of the canisters usually supplied by the tape manufacturers, since those canisters provide a dust-free environment and support the reel by the hub. However, many ADP facilities use wraparound rings instead of canisters because of savings in storage space. While the wraparound rings do not afford the same dust protection or physical protection provided by the canisters, they can be effective when handled properly. When wraparound rings are used, the reels shall be handled in such a manner as to prevent the reel flanges from being squeezed and causing tape-edge damage. Care should be taken also to insure that proper size rings are used and that they are not defective, for either condition may cause tape-edge damage. Before the rings are removed, dust accumulations on the exposed reel flanges should be removed with a dust absorbent cloth to prevent the dust from contaminating the tape. This dusting should ordinarily be performed by the tape librarian before the tape is issued.

(a) Magnetic computer tape, whether protected by canisters or wraparound rings, should be handled in accordance with the following basic safeguards:

(1) Tape should be stored in a temperature and humidity environment equivalent to that of the computer room in which it will be used or kept 24 hours in such an environment before being used.

(2) Tape should be stored in a vertical position. When not in use, tape should not be exposed outside of its protective container.

(3) Empty tape canisters should not be left open to permit entry of dust or other contaminants. Wraparound rings should be hung in a clean area when not in use.

(4) A clean stopper should always be used with tape canisters.

(5) Rubber stoppers should never be used with wraparound rings as the extra thickness may emboss the tape.

(6) Tape reels should always be handled by the hub and never by the flanges. They should be laid down flat and never tilted or hit on the edge. If dropped, they should be checked immediately for cracked flanges and the tape should be inspected as soon as possible for edge damage.

(7) Takeup reels should be removed periodically and checked for dirt or other contamination inside the flange and hub areas. Such reels should also be checked periodically for signs of warping or cracks at the hub.

(8) Tape leaders should not be left to lie on a table or floor or exposed to contaminating surfaces.

(9) Tape drives should be checked periodically for contamination. As a minimum requirement, the entire tape path should be cleaned after every 8 hours of operation or more frequently if recommended by the manufacturer.

(10) Read/write heads, braking and driving capstans, and pulleys should be cleaned commensurate with use and checked daily for surface burrs, nicks, or distortions which may scar the tape.

(11) Vacuum columns should be checked daily during the course of operation for accumulation of foreign matter at the bottom. In addition to being a possible source of contamination, accumulations may impede the vacuum and affect ability of the tape drive to properly handle the tape.

(12) The recording surface of a good tape should never be touched between the BOT indicator and the EOT indicator.[1] When tape is being mounted, the hub should be pushed rather than the flanges. Tape should never be thrown or carelessly handled.

(13) Transport of magnets or magnetic materials into or through computer rooms and tape libraries shall be forbidden. Damage to recorded data can occur when magnetic materials come in direct contact with the tape.

(14) Tape recordings can be accidentally erased if brought into very close proximity to electric motors, aircraft power cables, or into the path of radar signals. The possibility of such exposure should be avoided. The greatest potential for accidental erasure exists when the tape is in transit, therefore, packaging should insure a clearance of 1½ to 2 inches between the tape and the external walls of the container. Packaged tape should be conspicuously labeled "Magnetic Tape" and bear an appropriately worded warning against exposure to magnetic fields, radiation, heat, and other similar conditions. With respect to metal detection devices in use at airports, arrangements should be made for physical inspection of packages containing magnetic computer tape instead of inspection by the electronic detection devices which can destroy any data recorded on the tape.

(b) The environment in which tape is used or stored shall always be as clean as possible because friction between tape and guide surfaces on the tape drives creates an electrostatic charge which attracts airborne particles to the tape. Particles of only 0.00046 inch in size can cause a tape error. Therefore, the elimination of dust, lint, or other foreign matter from equipment in tape libraries, tape storage areas, and tape rehabilitation areas is necessary for efficient operation. The cleanliness of equipment, floors, and contiguous areas, and the control of temperature and humidity within tolerances prescribed by tape equipment manufacturers are essential. In addition to the computer room environmental control procedures provided in § 101-36.704, the following safeguards shall be observed:

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[1] BOT and EOT means Beginning of Tape and End of Tape, respectively.

(1) Traffic in and out of tape libraries, tape storage areas, and tape rehabilitation areas shall be kept to a minimum. Smoking, eating, and drinking in such areas shall be prohibited.

(2) Tape libraries, tape storage areas, and tape rehabilitation areas shall be maintained as free from dust as possible. Air-conditioner filters should be of a type approved by competent authority; e.g., Underwriters Laboratories, for use with tape systems and checked frequently, particularly if an excessive buildup of dust appears on equipment or is otherwise evident. Particular attention shall be given to fiberglass filters since they often fail to prevent the penetration of fine silts and tend to broadcast particles of fiberglass which may be attracted to the tape. For replacement of filters or assistance in dust control, the GSA buildings manager, or other official controlling or operating the building, shall be contacted.

[37 FR 8879, May 2, 1972, as amended at 41 FR 16801, Apr. 22, 1976. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-36.1206 Cleaning and certifying magnetic computer tape.

(a) Magnetic computer tape which contains error conditions frequently can be restored to usefulness by cleaning and/or certifying. The greatest accumulation of tape errors is usually in the first 100 feet of a reel. When this is the case, the most appropriate action is to cut off the contaminated area, relocate the BOT indicator, and continue to use the tape. Usually, the reduced length will not detract from its usefulness. When the tape errors continue throughout the length of the tape, it should be determined if the errors are caused by physical distortion. Physical distortion is usually the result of careless handling and can rarely be corrected. Such errors can be seen as wrinkles, creases, or turned-up edges. Errors, however, caused by foreign matter or self-generating oxide and tape backing wear usually can be removed since they are the result of the accumulation of microscopic particles of foreign matter on the tape surface.

(b) There are three processes in the rehabilitation program for restoring tape. The equipment and restoration procedures are described briefly, as follows:

(1) *Tape cleaning.* Tape may be cleaned by using tape cleaning equipment which passes the tape over a knife edge to remove any contaminants from the oxide surface. This equipment can remove approximately 90 percent of the tape errors caused by dirt or redeposits of oxide or backing material. Also the tape pile is smoothly wound as a result of precision winding and programed tension winding. Tape cleaning equipment of this type is capable of cleaning approximately six tapes per hour, including setup and takedown time. One operator should be capable of operating two tape-cleaning machines simultaneously. It should be noted that this process will not indicate the condition of a tape before or after cleaning. This process will not destroy data recorded on the tape.

(2) *Tape cleaning and testing.* Tape may be cleaned and tested by using a cleaner/tester. This equipment will, in addition to cleaning the tape as in (b)(1), of this section, perform a non-stop inspection by writing on and reading the tape and will automatically determine the condition of the tape by indicating the number of transient and permanent errors and their location. As a result of this process, the condition of the tape is known and a determination can be made to (i) return the tape to operation, (ii) send the tape to certification and repair, or (iii) replace the tape. Tape cleaning and testing equipment of this type is capable of processing approximately four tapes per hour. One operator should be capable of operating two tape cleaning and testing machines simultaneously. This process will destroy data recorded on the tape.

(3) *Tape cleaning and certification.* Tape may be cleaned and certified by using tape certification equipment. Such equipment, in addition to cleaning the tape as in (b)(1), of this section, locates and stops at every error which was not removed by the initial

cleaning and the operator, using a microscope, endeavors to remove the error with a scalpel. The completed certification process usually restores the tape to near error-free condition with the number and location of remaining errors indicated. A proficient operator can operate two certifiers at one time. Certification requires approximately 15 minutes for each reel of tape. This process will destroy data recorded on the tape.

(c) Data processing centers should perform or have tape cleaning and/or certifying performed when economically justified. If cleaning and/or certifying is to be performed, it should conform to the latest applicable specifications developed by the National Bureau of Standards, U.S. Department of Commerce.

§ 101-36.1207 Maintenance of tape files.

To prevent the loss of valuable information recorded on computer magnetic tape, in addition to the other stipulations of this Subpart 101-36.12, the following standards shall apply to the maintenance of tape files that are scheduled for long-term retention:

(a) Tapes shall be tested and certified within at most 6 months before they are used to record information for long-term retention.

(b) When tapes are written, they shall be verified as error free.

(c) For tapes in inactive storage, a 3 percent statistical sample of all reels of archivally valuable tape files shall be read annually to identify any loss of data and to discover its causes. Measures shall be taken to eliminate the causes of errors. Tapes with 10 or more errors shall be replaced and, when possible, lost data shall be restored.

(d) For tapes in active use, whenever 10 or more errors occur within a reel, the tape shall be examined to determine the causes of the errors. When the errors are due to permanent tape damage, the file shall be transferred to certified tape. When the errors are correctable, appropriate measures such as cleaning and rewinding under programed tension shall be applied.

(e) To prevent loss of information due to changing technology or to the aging of the storage medium, when appropriate, files shall be rewritten and/or transferred to another machine-sensible medium.

[41 FR 16801, Apr. 22, 1976. Redesignated at 43 FR 27191, June 23, 1978]

Subpart 101-36.13—Implementation of Federal Information Processing and Federal Telecommunication Standards Into Solicitation Documents

AUTHORITY: Secs. 111 and 205(c), 79 Stat. 1127; 40 U.S.C. 759 and 63 Stat. 390; 40 U.S.C. 486(c).

SOURCE: 37 FR 11726, June 13, 1972, unless otherwise noted. Redesignated at 43 FR 27191, June 23, 1978.

§ 101-36.1300 Scope of subpart.

This subpart provides standard terminology for use in solicitation documents for the acquisition of ADP and telecommunication equipment, services, and related software. This subpart supplements the provisions of Part 101-36 and is applicable, where particular standards apply, to equipment and services acquired under Part 101-37 of the FPMR and Subpart 1-4.11 of the FPR.

[43 FR 34141, Aug. 3, 1978]

§ 101-36.1301 Applicability.

The provisions of this subpart are applicable to all Federal agencies unless the agencies are otherwise excepted. Waiver procedures are prescribed in the applicable standards.

[43 FR 34141, Aug. 3, 1978]

§ 101-36.1302 Federal standards.

Federal standards discussed in this subpart are categorized as Federal Information Processing Standards (FIPS), Federal Telecommunication Standards (FED-STD), or as Joint Federal Information Processing and Federal Telecommunication Standards (FIPS/FED-STD). Each of these standards categories is described in detail below.

[43 FR 34141, Aug. 3, 1978]

§ 101-36.1302-1 Federal Information Processing Standards Publications (FIPS PUBS).

Federal Information Processing Standards Publications (FIPS PUBS) are official Federal Government publications relating to standards adopted and issued under the provisions of section 111 of the Federal Property and Administrative Services Act of 1949, 63 Stat. 383, as amended, 40 U.S.C. 759 and Executive Order 11717 (3 CFR). These publications are issued by the National Bureau of Standards (NBS) and collectively constitute the Federal Information Processing Standards Register. As an aid in implementing this Subpart 101-36.13, all agencies should establish and maintain a register in accordance with FIPS PUB O, General Description of the Federal Information Processing Standards Register, November 1, 1968. Requests for FIPS PUBS should be sent to:

National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22161, telephone 703-557-4650; FTS 557-4650.

Requests for discount prices on quantity orders should also be referred to the above address and telephone number. Requests for FIPS PUBS subscriptions should be sent to:

Subscriptions, National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22161, telephone 703-557-4630; FTS 557-4630.

[43 FR 34141, Aug. 3, 1978]

§ 101-36.1302-2 Federal Telecommunication Standards (FED-STD).

Federal Telecommunication Standards (FED-STD) are official Federal Government publications relating to standards adopted and issued under the provisions of section 206 of the Federal Property and Administrative Services Act of 1949, 63 Stat. 390, as amended, 40 U.S.C. 487. These Federal publications are issued by the General Services Administration and collectively constitute the Federal Supply Class (FSC) of "Telecommunications" in the Federal Standards Index. These publications are available from the General Services Administration (3FRI), Specification Branch, Building 197, Washington Navy Yard, Washington, D.C. 20407, telephone 202-472-2205; FTS 472-2205. Requests for standards must include the appropriate FED-STD number.

NOTE: Most Federal Telecommunication Standards (FED-STD) implement specifications contained in American National Standards Institute (ANSI) standards or Electronic Industry Association (EIA) standards. Addresses are referenced in the appropriate FED-STD. Federal agencies may secure one copy of each FED-STD free of charge.

[43 FR 34141, Aug. 3, 1978]

§ 101-36.1302-3 Joint Federal Information Processing Standards (FIPS) and Federal Telecommunication Standards (FED-STD).

Joint Federal Information Processing Standards and Federal Telecommunication Standards (FIPS/FED-STD) are standards which are published as both FIPS and FED-STD within the authorities cited in §§ 101-36.1302-1 and 101-36.1302-2. Either the FIPS or the FED-STD adequately addresses the joint applicability, and these standards are available as discussed in §§ 101-36.1302-1 and 101-36.1302-2.

[43 FR 34141, Aug. 3, 1978]

§ 101-36.1303 Definitions.

The following definitions are applicable to subpart 101-36.13. For terms not defined, see the FIPS PUB 11-1, American National Standard Vocabulary for Information Processing, available as discussed in § 101-36.1302-1, and the Military Communications System Standards, Terms, and Definitions (MIL-STD-188-120), available as discussed in § 101-36.1302-2.

[43 FR 34141, Aug. 3, 1978]

§ 101-36.1303-1 Standard terminology.

"Standard terminology" means that language which is used in purchase agreements, solicitations, and offers for acquisitions of ADP and telecommunication equipment, services, and related software to ensure conformance with Federal Information Processing and Federal Telecommunication Standards.

[43 FR 34142, Aug. 3, 1978]

§ 101-36.1303-2 Hardware standards.

"Hardware standards" means that category of standards which includes areas of standardization such as character recognition, interchange codes and media, transmission, interface, and keyboards.

§ 101-36.1303-3 Software standards.

"Software standards" means that category of standards which includes areas of standardization such as programing languages, operating systems, operating procedures, and documentation.

§ 101-36.1303-4 Applications standards.

"Applications standards" means that category of standards which includes areas of standardization such as payroll, flowcharting, and data base management.

§ 101-36.1303-5 Data standards.

"Data standards" means that category of standards which includes areas of standardization such as data elements, data formats, and data representations and data codes.

§ 101-36.1304 Hardware standards.

This section provides standard terminology for use in the procurement of ADPE and gives effect to the applicable FIPS PUBS covering areas of standardization listed in § 101-36.1303-2.

§ 101-36.1304-1 FIPS PUB 1, Code for Information Interchange.

(a) FIPS PUB 1 promulgates the American Standard Code for Information Interchange (ASCII) and specifies the code and character set for use in Federal information processing systems, communications systems, and associated equipment. (Technical specifications of the standard are not included with FIPS PUB 1.)

(b) The standard terminology for use in solicitation documents is:

ASCII SYSTEM REQUIREMENTS

The system, upon receiving a hardware or software command, must accept data on magnetic tape, paper tape, or any other input media covered by an approved Federal Information Processing Standards Publication (FIPS PUB) in ASCII code and collating sequence prescribed in FIPS PUB 1 and in the format prescribed in FIPS PUBS 2, 3, or other applicable FIPS PUBS. Such data may be translated, if necessary, into a form upon which the proposed equipment can internally process: *Provided*, That, upon receiving a hardware or software command, the output of the processed data to magnetic tape, paper tape, and other output media will be in the ASCII code and collating sequence prescribed in FIPS PUB 1 and in the format prescribed in FIPS PUBS 2, 3, or other applicable FIPS PUBS.

§ 101-36.1304-2 FIPS PUB 2, Perforated Tape Code for Information Interchange.

(a) FIPS PUB 2 specifies the representation of the ASCII code and format on perforated tape to be used in Federal information processing systems, communications systems, and associated equipment. (Technical specifications of the standard are not included with FIPS PUB 2.)

(b) The standard terminology for use in solicitation documents is:

PUNCHED PAPER TAPE READERS AND PUNCHES

Punched paper tape equipment must be capable of reading and punching in the prescribed ASCII code and format specified in FIPS PUBS 1 and 2.

§ 101-36.1304-3 FIPS PUB 3-1, Recorded Magnetic Tape for Information Interchange (800 CPI, NRZI).

(a) FIPS PUB 3-1 supersedes FIPS PUB 3, reflects a change in scope from the earlier version of X3.22-1967, and encompasses the recorded tape requirements only. The unrecorded tape standard will include the requirements for the physical property of the tape and reels that were previously included in FIPS 3. FIPS PUB 3-1 specifies the recorded characteristics of 9-track digital ½-inch-wide magnetic computer tape, including the data format for implementing the Federal Standard Code for Information Interchange at the recording density of 800 characters per inch (CPI). (Technical specifications of the standard are not included with FIPS PUB 3-1.)

(b) The standard terminology to be used in solicitation documents is:

All 9-track digital magnetic tape recording and reproducing equipments resulting from this solicitation employing ½-inch-wide tape at the recording density of 800 characters per inch (CPI), including associated programs, shall provide the capability to accept and generate recorded tapes in compliance with the requirements set forth in FIPS PUB 3-1.

[38 FR 22476, Aug. 21, 1973. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-36.1304-4 FIPS PUB 7, Implementation of the Code for Information Interchange and Related Media Standards.

(a) FIPS PUB 7 supplements FIPS PUBS 1, 2, and 3 and provides details concerning their implementation and applicability. (Technical specifications of a standard are not required in connection with FIPS PUB 7.)

(b) The standard terminology for use in solicitation documents: Not applicable.

§ 101-36.1304-5 FIPS PUB 13, Rectangular Holes in 12-Row Punched Cards.

(a) FIPS PUB 13 specifies the size and location of rectangular holes in 12-row 3¼-inch-wide punched cards. The standard applies to card reading and punching equipment used in data processing, communications, and similar operations. It does not apply to other types of equipment such as those which punch round holes or cards of other width dimensions. (Technical specifications of the standard are not included with FIPS PUB 13.)

(b) The standard terminology for use in solicitation documents is:

> All punching or reading equipment utilizing 12-row 3¼-inch wide punched cards used in data processing, communications, and similar operations must be capable of punching and reading rectangular holes of a size and location specified in FIPS PUB 13.

§ 101-36.1304-6 FIPS PUB 14, Hollerith Punched Card Code.

(a) FIPS PUB 14 specifies the representation of the Federal Standard Code for Information Interchange, FIPS PUB 1, in 12-row 3¼-inch wide, rectangular hole, punched cards used in Federal information processing systems, communications systems, and associated equipment. This standard does not apply to other types of punched cards such as those with round holes or to "edge-punched" cards whose holes resemble those used in perforated tape. (Technical specifications of the standard are not included with FIPS PUB 14.)

(b) The standard terminology for use in solicitation documents is:

> All punching or reading equipment utilizing 12-row 3¼-inch wide, rectangular hole punched cards used in data processing, communications, and similar operations must be capable of punching or reading the Federal Standard Code for Information Interchange, FIPS PUB 1, or one of the approved Subsets of the Standard Code for Information Interchange, FIPS PUB 15, in the hole pattern specified in FIPS PUB 14, Hollerith Punched Card Code.

§ 101-36.1304-7 FIPS PUB 15, Subsets of the Standard Code for Information Interchange.

(a) FIPS PUB 15 amends FIPS PUB 7 and requires that all printers, display devices, punched card, and other data processing or communications equipment brought into the Federal inventory which utilize a character set less than that provided by the 128-character set of FIPS PUB 1 must conform to one of the three subsets provided in FIPS PUB 15. (Technical specifications of the standard are included with FIPS PUB 15.)

(b) The standard terminology for use in solicitation documents is:

> Printers; display devices; data acquisition, preparation, and transcription devices; data communication terminal devices; punched card equipment; and other data processing or communications equipment that may result from this solicitation not requiring the full 128-character set of the Federal Code for Information Interchange, FIPS PUB 1, must conform to one of the approved character Subsets of the Standard Code for Information Interchange, FIPS PUB 15. Printers of the "chain" or "train" or other replaceable symbol technology may also be provided with optional subsets having a different number of characters than those specified in FIPS PUB 15 in order to increase the printer's repetoire of symbols or the printer's speed as required for local use, provided the ability to interchange information by the selected character subset (FIPS PUB 15) is retained in the data processing system.

§ 101-36.1304-8 FIPS PUB 25, Recorded Magnetic Tape for Information Interchange (1600 CPI, Phase Encoded).

(a) FIPS PUB 25 specifies the recorded characteristics of 9-track digital ½-inch-wide magnetic computer tape, including the data format for implementing the Federal Standard Code for Information Interchange at the recording density of 1,600 characters per inch (CPI). (With one exception that is cited in FIPS PUB 25, technical specifications of the standard are contained in American National Standard X3.39-1973, Recorded Magnetic Tape for Information Interchange (1600 CPI, P.E.).)

(b) The standard terminology for use in solicitation documents is:

All 9-track digital magnetic tape recording and reproducing equipment resulting from this solicitation and employing ½-inch-wide tape at the recording density of 1,600 characters per inch (CPI, phase encoded), including associated programs, shall provide the capability to accept and generate recorded tapes in compliance with the requirements set forth in FIPS PUB 25.

[43 FR 34142, Aug. 3, 1978]

§ 101-36.1304-9 FIPS PUB 26, One-Inch Perforated Paper Tape for Information Interchange.

(a) FIPS PUB 26 specifies the physical dimensions and tolerances of 1-inch-wide paper tape, including the size and location of the perforations used for recording information. (Technical specifications of the standard are contained in American National Standard X3.18-1974, One-Inch Perforated Paper Tape for Information Interchange.)

(b) The standard terminology for use in solicitation documents is:

All 1-inch-wide perforated paper tape and related 8-channel paper tape punch and reading equipment which result from this solicitation and are utilized in Federal information processing systems, communication systems, and associated terminals employing perforated paper tape equipment shall provide the capability to accept and generate tapes in compliance with the requirements set forth in FIPS PUB 26.

[43 FR 34142, Aug. 3, 1978]

§ 101-36.1304-10 FIPS PUB 27, Take-up Reels for One-Inch Perforated Tape for Information Interchange.

(a) FIPS PUB 27 specifies the physical dimensions of paper tape takeup (or storage) reels with either fixed or separate flanges. The two types of reels specified differ in the size and shape of the drive hub, but both are intended for use with 1-inch perforated paper tape devices. (Technical specifications of the standard are included in FIPS PUB 27.)

(b) The standard terminology for use in solicitation documents is:

All 1-inch perforated tape takeup reels and related devices employing such reels, including paper tape readers, punches, and related tape handling equipment, which result from this solicitation and are used in Federal information processing systems and associated equipment employing such devices, shall provide the capability to accept one of the two types of reels specified in FIPS PUB 27.

[43 FR 34142, Aug. 3, 1978]

§ 101-36.1304-11 FIPS PUB 32, Optical Character Recognition Character Sets.

(a) FIPS PUB 32 provides the description, scope, and identification for different character sets (OCR-A and OCR-B) to be used in the application of Optical Character Recognition (OCR) systems. (Technical specifications of the standard are contained in American National Standard X3.49-1975, Character Set for Optional Character Recognition (OCR-B).)

(b) The standard terminology for use in solicitation documents is:

All applicable Optical Character Recognition (OCR) equipment or services resulting from this solicitation must comply with the provisions of FIPS PUB 32. Applicable OCR equipment also includes data input devices such as typewriters, line printers, and CRT displays. Applicable services include data preparation and processing of information represented in OCR form.

[43 FR 34142, Aug. 3, 1978]

§ 101-36.1304-12 FIPS PUB 33, Character Set for Handprinting.

(a) FIPS PUB 33 announces the adoption of the American National Standard X3.45-1974, Character Set for Handprinting, as a Federal standard. The standard provides the description, scope, and application rules for a character set for handprinting. (Technical specifications of the standard are contained in American National Standard X3.45-1974, Character Set for Handprinting.)

(b) The standard terminology for use in solicitation documents is:

All applicable Optical Character Recognition (OCR) equipment or services which result from this solicitation and which are capable of reading handprinted material must comply with FIPS PUB 33. The applicable services include data preparation and processing of information represented in OCR form.

[43 FR 34142, Aug. 3, 1978]

§ 101-36.1304-13 FIPS PUB 35, Code Extension Techniques in 7 or 8 Bits.

(a) FIPS PUB 35 specifies methods of extending the 7-bit code of the Standard Code for Information Interchange (FIPS PUB 1/ASCII), remaining in a 7-bit environment or increasing to an 8-bit environment, building upon the structure of ASCII to describe various means of extending the control and graphic sets of code. FIPS PUB 35 describes techniques for constructing codes related to ASCII to allow application-dependent usage without preventing the interchangeability of the data, and also describes 8-bit codes for general information interchange in which ASCII is a subset. (Technical specifications are contained in American National Standard X3.41-1974, Code Extension Techniques for Use with the 7-Bit Coded Character Set of the American National Standard Code for Information Interchange.)

(b) The standard terminology for use in solicitation documents is:

All coded character sets offered as a result of this solicitation which require control function and/or graphic symbols that are not included in the 128 characters of ASCII will be implemented through the use of the code extension methods and techniques as described in FIPS PUB 35.

[43 FR 34142, Aug. 3, 1978]

§ 101-36.1304-14 FIPS PUB 36, Graphic Representation of the Control Characters of ASCII (FIPS 1).

(a) FIPS PUB 36 specifies graphical representation for the 34 characters of ASCII (FIPS PUB 1) for which a graphic representation is not indicated in FIPS PUB 1. Graphic representations are given for the 32 control functions of column 0 and 1 and for the characters "space" and "delete." Two forms of graphical representation for each of the 34 characters are provided: a pictorial symbol and a 2-letter alphanumeric code. (Technical specifications are contained in American National Standard X3.32-1973, Graphic Representation of the Control Characters of American National Standard Code for Information Interchange.)

(b) The standard terminology for use in solicitation documents is:

All applicable equipment that may result from this solicitation that prints or displays graphic representations of any or all of the control characters of ASCII (FIPS PUB 1) or of the characters "space" or "delete" must comply with the requirements set forth in FIPS PUB 36. This standard also applies to equipment that prints these graphic representations on media such as perforated tape, punched cards, or listing.

[43 FR 34142, Aug. 3, 1978]

§ 101-36.1304-15 FIPS PUB 46, Data Encryption Standard (DES).

(a) FIPS PUB 46 specifies an algorithm to be implemented in computer or related data communication devices using hardware (not software) technology. This standard shall be used by Federal agencies for the cryptographic protection of computer data when:

(1) A department or agency decides that cryptographic protection is required; and

(2) The data are not classified according to the National Security Act 1947, as amended; or the Atomic Energy Act of 1954, as amended.

(b) Federal agencies using cryptographic devices for protecting data classified according to either the National Security Act or the Atomic Energy Act can use these devices for protecting unclassified data in lieu of the standard.

(c) Technical specifications are included with FIPS PUB 46.

(d) The standard terminology for use in solicitation documents is:

In the event that a data encryption requirement is specified elsewhere in this solicitation, such encryption will be accomplished in accordance with FIPS PUB 46. Implementations of the standard embodied in products or services offered as a result of this solicitation that are asserted to have an encryption capability in conformance with FIPS PUB 46 must have the capability validated by the National Bureau of Standards prior to being proposed. Arrangements for validation may be made with the Systems and Software Division, National Bureau of Standards, Washington, DC 20234.

[43 FR 34142, Aug. 3, 1978]

§ 101-36.1304-16 FIPS PUB 50, Recorded Magnetic Tape for Information Interchange, 6250 CPI (246 CPMM), Group Coded Recording.

(a) FIPS PUB 50 specifies the recording characteristics of 9-track, ½-inch-wide (12.7 mm) magnetic computer tape, including the format for implementing the Standard Code for Information Interchange (FIPS PUB 1/ASCII) at the recording density of 6250 characters per inch (246 characters per millimeter). (FIPS PUB 50 adopts American National Standard X3.54-1976, Recorded Magnetic Tape for Information Interchange (6250 CPI, Group Coded Recording), with one exception—paragraph 5.4.3. of X3.54-1976 should read: "Bit Z shall be zero or treated as a bit of higher order than the ASCII bits.")

(b) The standard terminology to be used in solicitation documents is:

All applicable digital magnetic tape recording and reproducing equipment which results from this solicitation and employs ½-inch-wide (12.7 mm) magnetic computer tape at the recording density of 6250 characters per inch (246 characters per millimeter) group-coded recording, including associated programs, shall provide the capability to accept and generate recorded tape in compliance with the requirements set forth in FIPS PUB 50.

[43 FR 34142, Aug. 3, 1978]

§ 101-36.1304-17 FIPS PUB 51, Magnetic Tape Cassettes for Information Interchange (3.810 mm [0.150 in] Tape at 32 BPMM [800 BPI], PE).

(a) FIPS PUB 51 specifies the physical, magnetic, and recording characteristics of a 3.810 mm (0.150 inch) magnetic tape cassette in order to provide for data interchange between information processing systems at a recording density of 32 bits per millimeter (800 bits per inch) using phase encoding techniques. (FIPS PUB 51 adopts technical specifications contained in American National Standard X3.48-1977, Magnetic Tape Cassettes for Information Interchange (3.810 mm [0.150 in] Tape at 32 BPMM [800 BPI], PE).

(b) The standard terminology to be used in solicitation documents is:

All magnetic tape cassette recording and reproducing equipment which results from this solicitation and employs 3.810 mm (0.150 inch) wide magnetic tape at the recording density of 32 bits per millimeter (800 bits per inch) using phase encoding techniques, including associated programs, shall provide the capability to accept and generate recorded tapes in compliance with the requirements set forth in FIPS PUB 51.

[43 FR 34142, Aug. 3, 1978]

§ 101-36.1304-18 FIPS PUB 52, Recorded Magnetic Tape Cartridge for Information Interchange, 4-Track, 6.30 mm (0.250 in), 63 BPMM (1600 BPI) Phase Encoded.

(a) FIPS PUB 52 specifies the recorded characteristics for a 6.30 mm (0.250 in) wide magnetic tape cartridge with either one, two, or four serial data tracks in order to provide for data interchange between information processing systems, communication systems, and associated equipment at a recording density of 63 bits per millimeter (1600 bits per inch) using phase encoding recording techniques. This standard is one of a series of Federal standards implementing the Federal Standard Code for Information Interchange (FIPS PUB 1) on magnetic tape media. (With one exception as cited in FIPS PUB 52, technical specifications of the standard are contained in American National Standard X3.56-1977, Recorded Magnetic Tape Cartridge for Information Interchange, 4-Track, 0.250 in (6.30 mm), 1600 BPI (63 BPMM), Phase Encoded.)

(b) The standard terminology for use in solicitation documents is:

All magnetic tape cartridge recording and reproducing equipment which results from this solicitation and employs 6.30 millimeter (0.250 inch) wide magnetic tape with one, two, or four independent serial data tracks at recording densities of 63 bits per millimeter (1600 bit per inch) using phase encoding techniques, including associated software, shall provide the capability to accept and generate recorded magnetic tape cartridges in the code and format as specified in FIPS PUB 1 and FIPS PUB 52.

[43 FR 55404, Nov. 28, 1978]

§ 101-36.1304-19 FIPS PUB 54, Computer Output Microform (COM) Formats and Reduction Ratios, 16 mm and 105 mm.

(a) FIPS PUB 54 specifies the image arrangement, size, and reduction for 16 mm and 105 mm microforms generated by computer output microfilmers. It is limited to systems using business-oriented fonts similar to line printer output. The standard does not cover engineering drawings or microphotocomposition using complex graphics or graphic arts fonts and formats, nor does it cover special systems using two-step reduction techniques. (Technical specifications of the standard are included with FIPS PUB 12.)

(b) The standard terminology for use in solicitation documents is:

All applicable equipment or services that may result from this solicitation that produce computer generated microforms using plain type faces must be in compliance with FIPS PUB 54.

[43 FR 55404, Nov. 28, 1978]

§ 101-36.1304-20 FIPS PUB 60, Input/Output (I/O) Channel Interface.

(a) FIPS PUB 60 defines the functional, electrical, and mechanical interface specifications for connecting computer peripheral equipment as a part of automatic data processing (ADP) systems. This standard, with a companion standard for power control (FIPS PUB 61), defines the hardware characteristics for the I/O channel level interface. Two other closely related standards specify how this interface is to be used for the connection of particular classes of peripheral devices. These standards are FIPS PUB 62, Operational Specifications for Magnetic Tape Subsystems, and FIPS PUB 63, Operational Specifications for Rotating Mass Storage Subsystems.

(b) This standard provides that FIPS PUB 60 is applicable to the acquisition of all ADP systems and peripheral subsystems acquired by the Federal Government except those minicomputer, microcomputer, and other small-scale systems that are specifically excluded by the National Bureau of Standards (NBS). A list of these currently excluded systems and the current criteria for exclusion is developed, maintained, and periodically distributed to all Federal agencies by NBS and is publicly available from NBS upon request. The standard contains additional applicability, implementation, and waiver provisions. If waivers are applicable to a solicitation, the solicitation document shall so state. Questions regarding FIPS PUBS 60, 61, 62, or 63 may be directed to the System Component Division, A-219 Technology, National Bureau of Standards, Washington, DC 20234 (telephone 301-921-2705).

(c) The correct operation of all interfaces required to conform to FIPS PUB 60 must be verified by NBS before the acceptance of all applicable ADP equipment. A list of equipment having verified interfaces will be established, maintained, and periodically distributed to all Federal agencies by NBS and will be available from NBS upon request. This list will identify each interface verified and the conditions of verification. The solicitation document shall require offerors to state the status of verification for those interfaces for which conformance is required.

(d) The standard terminology for use in solicitation documents is:

Unless otherwise excluded as specified in FIPS PUB 60, or unless a waiver is granted following the waiver procedures specified in FIPS PUB 60, ADP systems and peripheral subsystems that may result from this solicitation, and for which operational specifications FIPS PUBS (such as FIPS PUBS 62 and 63) have been issued and are in effect, must conform to FIPS PUB 60. The correct operation of these systems' conforming interfaces must be verified before the acceptance of all applicable ADP equipment in accordance with FPMR 101-36.1304-20(c). Arrangements for verification may be made according to procedures issued by the National Bureau of Standards. These procedures may be obtained by writing the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, DC 20234, Attention: Verification of I/O Channel Level Interface Standards. The Government may, at its option, apply instrumentation and test equipment at any interface required to conform with FIPS PUB 60 before the acceptance of these ADP systems to ensure conformance with FIPS PUB 60. Waivers applicable to the requirements of this solicitation are identified elsewhere in this solicitation document.

NOTE 1: NBS published verification procedures regarding FIPS PUBS 60, 61, 62, and 63 on December 11, 1979 (44 FR 71444-71445) and a verification procedure checklist on February 27, 1980 (45 FR 12862).

[45 FR 43415, June 27, 1980]

§ 101-36.1304-21 FIPS PUB 61, Channel Level Power Control Interface.

(a) FIPS PUB 61 defines the functional, electrical, and mechanical interface specifications for a power control interface for use in connecting computer peripheral equipment as a part of ADP systems. This standard, with a companion standard for I/O Channel Interface (FIPS PUB 60), defines the hardware characteristics for the I/O channel level interface. This standard provides that FIPS PUB 61 is applicable whenever use of FIPS PUB 60 is required. If waivers are applicable to a solicitation, the solicitation document shall so state.

(b) The correct operation of all interfaces required to conform to FIPS PUB 61 must be verified by NBS before the acceptance of all applicable ADP equipment. A list of equipment having verified interfaces will be established, maintained, and periodically distributed by NBS and will be available from NBS upon request. This list will identify each interface verified and the conditions of verification. The solicitation document shall require offerors to state the status of verification for those interfaces for which conformance is required.

(c) The standard terminology for use in solicitation documents is:

Unless otherwise excluded as specified in FIPS PUB 61 by reference to FIPS PUB 60 or unless a waiver is granted following the waiver procedures specified in FIPS PUB 61 ADP systems and peripheral subsystems that may result from this solicitation, and for which operational specifications FIPS PUBS (such as FIPS PUBS 62 and 63) have been issued and are in effect, must conform to FIPS PUB 61. The correct operation of these systems' conforming interfaces must be verified before the acceptance of all applicable ADP equipment in accordance with FPMR 101-36.1304-21(b). Arrangements for verification may be made according to procedures issued by NBS. These procedures may be obtained by writing the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, DC 20234, Attention: Verification of I/O Channel Level Interface Standards. The Government may, at its option, apply instrumentation and test equipment at any interface required to conform to FIPS PUB 61 before the acceptance of these ADP systems to ensure conformance with FIPS PUB 61. Waivers applicable to the requirements of this solicitation are identified elsewhere in this solicitation document.

[45 FR 43416, June 27, 1980]

§ 101-36.1304-22 FIPS PUB 62, Operational Specifications for Magnetic Tape Subsystems.

(a) FIPS PUB 62 defines the peripheral device dependent operational interface specifications for connecting magnetic tape equipment as a part of ADP systems. It is to be used with FIPS PUB 60, I/O Channel Interface, and FIPS PUB 61, Channel Level Power Control Interface. This standard, with FIPS PUB 60 and 61, provides for full plug-to-plug interchangeability of magnetic tape equipment as a part of ADP systems. This standard provides that FIPS PUB 62 is applicable to the acquisition of all magnetic tape equipment whenever the use of FIPS PUB 60 is required. If waivers are applicable to a solicitation, the solicitation document shall so state.

(b) The correct operation of all interfaces required to conform to FIPS PUB 62 must be verified by NBS before the acceptance of all applicable ADP equipment. A list of equipment having verified interfaces will be established, maintained, and periodically distributed to all Federal agencies by NBS and will be available from NBS upon request. This list will identify each interface verified and the conditions of verification. The solicitation document shall require offerors to state the status of verification for those interfaces for which conformance is required.

(c) The standard terminology for use in solicitation documents is:

> Unless otherwise excluded as specified in FIPS PUB 62 by reference to FIPS PUB 60 or unless a waiver is granted following the procedures specified in FIPS PUB 62, ADP systems and magnetic tape subsystems that may result from this solicitation must conform to FIPS PUB 62. The correct operation of these systems' conforming interfaces must be verified before the acceptance of all applicable ADP equipment in accordance with FPMR 101-36.1304-22(b). Arrangements for verification may be made according to procedures issued by NBS. These procedures may be obtained by writing the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, DC 20234, Attention: Verification of I/O Channel Level Interface Standards. The Government may, at its option, apply instrumentation and test equipment at any interface required to conform to FIPS PUB 61 before the acceptance of these ADP systems to ensure conformance with FIPS PUB 62. Waivers applicable to the requirements of this solicitation are identified elsewhere in this solicitation document.

[45 FR 43416, June 27, 1980]

§ 101-36.1304-23 FIPS PUB 63, Operational specifications for rotating mass storage subsystems.

(a) FIPS PUB 63 defines the peripheral device dependent operational interface specifications for connecting rotating mass storage subsystems, such as magnetic disk equipment, as a part of ADP systems. It is to be used with FIPS PUB 60, I/O Channel Interface, and FIPS PUB 61, Channel Level Power Control Interface. This standard, with FIPS PUBS 60 and 61, provides for full plug-to-plug interchangeability of rotating mass storage equipment as a part of ADP systems. This standard provides that FIPS PUB 63 is applicable to the acquisition of all magnetic disk equipment whenever the use of FIPS PUB 60 is required. If waivers are applicable to a solicitation, the solicitation document shall so state.

(b) The correct operation of all interfaces required to conform to FIPS PUB 63 must be verified by NBS before the acceptance of all applicable ADP equipment. A list of equipment having verified interfaces will be established, maintained, and periodically distributed to all Federal agencies by NBS and will be available from NBS upon request. This list will identify each interface verified and the conditions of verification. The solicitation document shall require offerors to state the status of verification for those interfaces for which conformance is required.

(c) The standard terminology for use in solicitation documents is:

> Unless otherwise excluded as specified in FIPS PUB 63 by reference to FIPS PUB 60 or unless a waiver is granted following the waiver procedures specified in FIPS PUB 63, ADP systems and rotating mass storage subsystems that may result from this solicitation must conform to FIPS PUB 63. The correct operation of these systems' conforming interfaces must be verified before the acceptance of all applicable ADP equipment in accordance with FPMR 101-36.1304-23(b). Arrangements for verification may be made according to procedures issued by NBS. These procedures may be obtained by writing the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, DC 20234, Attention: Verification of Operational Specifications for Rotating Mass Storage Subsystems. The Government may, at its option, apply instrumentation and test equipment at any interface required to conform to FIPS PUB 63 before the acceptance of these ADP systems to ensure conformance with FIPS PUB 63. Waivers applicable to the requirements of this solicitation are identified elsewhere in this solicitation document.

[45 FR 43416, June 27, 1980]

§ 101-36.1304-x

(See Temporary Regulation F-497 published at 46 FR 3022, January 13, 1981.)

§ 101-36.1305 Software standards.

This section provides standard terminology for use in solicitation documents in the areas of standardization listed in § 101-36.1303-3.

§ 101-36.1305-1 FIPS PUB 21-1, Federal Standard COBOL.

(a) FIPS PUB 21-1 specifies the use of the American National Standard Programing Language COBOL X3.23-1974 as the Federal Standard COBOL. The purpose of FIPS 21-1 is to promote a high degree of interchangeability of programs for use on a wide variety of information processing systems. All COBOL compilers brought into the Federal Government inventory and those used to develop computer programs for the Government when providing programing services must be validated in accordance with paragraph (c).

(b) The standard terminology for use in solicitation documents is:

ACQUISITION OF COBOL COMPILERS

COBOL compilers offered as a result of the requirements set forth in this solicitation will be identified as implementing all of the language elements of at least one of the levels of Federal Standard COBOL as specified in FIPS PUB 21-1. Implementation must provide a facility for the user to optionally specify a level of Federal Standard COBOL for monitoring the source program at compile time. Monitoring may be specified for any level at or below the highest level for which a compiler is implemented and will consist of an analysis of the syntax used in a source program against the syntax included in the level specified for monitoring. Any syntax not conforming to the specified level will be identified through a diagnostic message in the source program listing. The diagnostic message will contain at least the identification of the source program line number for each nonconforming syntax and identify the level of Federal Standard COBOL that supports the syntax or indicate that the syntax is nonstandard COBOL.

ACQUISITION OF COBOL PROGRAMS AND/OR PROGRAMING SERVICES

Business-oriented computer application programs (i.e., those applications or programs that emphasize the manipulation of characters, files, and input/output as contrasted with those concerned primarily with computation of numeric values) offered or prepared as a result of the requirements set forth in this solicitation will be written using one of the levels of Federal Standard COBOL as defined in FIPS PUB 21-1 including optional language elements, if any, as specified herein. If services provided include compilation(s), compilers used to perform these services shall be validated in accordance with Federal Property Management Regulations (FPMR) 101-36.1305-1(c).

(c) COBOL compilers that are asserted to conform with one or more levels specified in FIPS PUB 21-1 and are offered to the Federal Government for purchase or lease and those used to develop computer programs when providing programing services or compilations shall be validated. The term "validation" as used in this section is the process of testing a given COBOL compiler against predetermined conditions and specifying which, if any, conditions are not met.

(1) COBOL compilers which are offered or used by vendors as a result of requirements set forth by Federal agencies in solicitations must implement the language elements of a designated level of the Federal Standard COBOL. To confirm that an implementation meets the specifications of the designated level of the Federal Standard COBOL, test routines have been developed and approved for use in testing COBOL compilers. These routines are known as the COBOL Compiler Validation System (CCVS). A Federal Compiler Testing Center (FCTC), operated by the General Services Administration, provides a validating service for Federal agencies.

(2) The test results for a COBOL compiler shall be used by a Federal agency to confirm that, insofar as the CCVS tests the language elements included in a designated level of Federal Standard COBOL, the compiler meets the specifications of that level of standard. When an agency has indicated a waiver to a Federal Standard COBOL specification in a solicitation, only the portions of the language that have been waived are excluded from the validation requirements.

(3) Validations will be conducted annually for each requesting vendor as specified in the official Compiler Validation Procedures prepared by the Federal Compiler Testing Center (FCTC). (Recertification of a previous annual validation may be substituted if no errors were identified during that previous annual validation and if no changes have been made to the compiler, its supporting system software, or the CCVS in the interim.) This

annual validation process is intended to reduce or eliminate the need for separate validations associated with individual agency procurements.

(4) Requests for and questions on validations should be sent to:

General Services Administration (CFT)
Federal Compiler Testing Center
Suite 1100, 5203 Leesburg Pike
Falls Church, VA 22041

(5) When a request for validation service requires that compiler testing be performed, the requester is responsible for providing the necessary test facilities.

(6) In response to a request for validation service, the FCTC will conduct a validation test using the CCVS and will provide a Validation Summary Report (VSR) summarizing the test results.

(7) Validation is performed on a cost-reimbursable basis. The FCTC will send the requester an estimate of validation costs for approval before beginning the validation process.

(8) Unresolved questions and/or any ambiguities that arise during compiler testing and are identified by the FCTC or by the requester shall be referred to the National Bureau of Standards in accordance with FIPS PUB 29.

(d) The standard terminology for use in solicitation documents is:

VALIDATION OF COBOL COMPILERS

In addition to the specified mandatory COBOL compiler requirements stated in the specification portion of this solicitation, all COBOL compilers brought into the Federal inventory as a result of this solicitation and those compilers used to develop programs when providing services, the most recent release of which has not been previously tested, must be tested using the official COBOL Compiler Validation System (CCVS). Validation shall be in accordance with Federal Property Management Regulation (FPMR) 101-36.1305-1(c). The results of the validation shall be used to confirm that the compiler meets the specified requirements of the designated level of FIPS PUB 21-1, Federal Standard COBOL. To be considered responsive, the vendor shall:

(i) Certify in the proposal that all COBOL compilers offered in response to this solicitation have been submitted for validation as set forth in FPMR 101-36.1305-1(c) or have been previously validated and are listed in the latest FCTC Certified Compiler List. Proof of submission for validation must be provided in the form of a letter from the FCTC containing identification of the compiler and scheduled date of validation. Proof of current validation must be provided upon agency request in the form of a Certificate of Validation from the FCTC.

(ii) Agree to correct all deviations from the standard reflected in the Validation Summary Report (VSR) not previously covered by a waiver. All deviations must be corrected within 12 months from the date of contract award unless a shorter period is specified elsewhere in this solicitation. If an interpretation of the standard is required that will invoke the procedures set forth in FIPS PUB 29, such requests for interpretations will be made within 30 calendar days after contract award.

Any corrections that are required as a result of decisions made under the procedures of FIPS PUB 29 will be completed within 12 months of the date of formal notification of the interpretation to the contractor. Failure to make required corrections within the time provisions set forth above shall be deemed a failure to deliver required software. The liquidated damages as specified for failure to deliver either operating system or other software shall apply. In addition, such failure falls within the purview of the default clause. If the required corrections are not made within the time provisions specified above, subsequent proposals submitted to the Government offering the deficient COBOL compilers or subsequent uncorrected versions thereto shall be considered nonresponsive.

[43 FR 34143, Aug. 3, 1978, as amended at 44 FR 50342, Aug. 28, 1979; 45 FR 6789, Jan. 30, 1980]

§ 101-36.1305-2 FIPS PUB 24, Flowchart Symbols and Their Usage in Information Processing.

(a) FIPS PUB 24 establishes standard flowchart symbols and specifies their use in the preparation of flowcharts in documenting information processing systems. (Technical specifications of the standard are not included with FIPS PUB 24.)

(b) The standard terminology for use in solicitation documents is:

All new information processing system documentation involving the use of flowcharts that may result from this solicitation document must comply with FIPS PUB 24.

[38 FR 22477, Aug. 21, 1973. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-36.1305-3 FIPS PUB 30, software summary for describing computer programs and automated data systems.

(a) FIPS PUB 30 provides for the use of Standard Form 185, Federal Information Processing Standard Software Summary, and the instructions for describing computer programs and/or automated data systems for identification purposes. (Copies of SF-185 are available as a GSA Federal supply stock item FSN 7540-118-8541.)

(b) The standard terminology for use in solicitation documents is:

All documentation of computer programs and/or automated data systems that results from this solicitation must include completed SF-185 summaries as described by FIPS PUB 30.

[40 FR 7097, Feb. 19, 1975. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-36.1305-4 FIPS PUB 53, Transmittal Form for Describing Computer Magnetic Tape File Properties.

(a) FIPS PUB 53 provided for the use of Standard Form 277, Computer Magnetic Tape File Properties, together with the instructions for providing the necessary information on the form. The form is to be used by Federal agencies to document the physical properties and characteristics of a recorded magnetic tape file needed by the receiving agency to process the tape. (Technical specifications of the standard are contained in FIPS PUB 53.)

(b) The standard terminology for use in solicitation documents is:

All magnetic tape used to transmit coded information to the Federal Government as a result of this solicitation must include completed Standard Forms 277 describing magnetic tape file properties as set forth in FIPS PUB 53.

[43 FR 55404, Nov. 28, 1978]

§ 101-36.1306 Applications standards.

This § 101-36.1306 is reserved for future reference to FIPS PUBS and to standard terminology for use in solicitation documents in the areas of standardization listed in § 101-36.1303-4.

§ 101-36.1307 Data standards.

This section provides standard terminology for use in solicitation documents in the areas of standardization listed in § 101-36.1303-5.

[42 FR 9667, Feb. 17, 1977. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-36.1307-1 FIPS PUBS applicable to the interchange of machine processable data between and among agencies.

(a) Data standards facilitate the authorized interchange of data among Federal ADP users and the collection and dissemination of data with State and local governments, industry, and the public. Agencies are also encouraged to use the approved data standards in their data systems when such use contributes to operational benefits, efficiency, or economy. (Technical specifications of the data standards identified in this § 101-36.1307-1(b) are included in each FIPS PUB with the exception of FIPS PUB 9, Congressional Districts of the United States.)

(b) The standard terminology for use in solicitation documents is:

All application programs (software and machine sensible data) resulting from this solicitation that have been identified as those that will be interchanged with Federal agencies, State and local governments, industry, and the public must implement the following applicable approved Federal Information Processing Standards (FIPS):

FIPS PUB 4 Calendar Date.

FIPS PUB 5-1 States and Outlying Areas of the United States.

FIPS PUB 6-3 Counties and County Equivalents of the States of the United States and the District of Columbia.

FIPS PUB 8-4 Standard Metropolitan Statistical Areas.

FIPS PUB 9 Congressional Districts of the United States.

FIPS PUB 10-2 Countries, Dependencies and Areas of Special Sovereignty.

FIPS PUB 58 Representations of Local Time of the Day for Information Interchange.

FIPS PUB 59 Representations of Universal Time, Local Time Differentials, and United States Time Zone References for Information Interchange.

FIPS PUB 66 Standard Industrial Classification (SIC) Codes.

[42 FR 9667, Feb. 17, 1977. Redesignated at 43 FR 27191, June 23, 1978, and amended at 45 FR 43417, June 27, 1980]

§ 101-36.1308 Federal Telecommunication Standards (FED-STD).

This section provides the standard terminology for use in solicitation documents applicable to Federal Telecommunication Standards.

[43 FR 34144, Aug. 3, 1978]

§ 101-36.1308-1 FED-STD 1002, Time and Frequency Reference Information in Telecommunication Systems.

(a) FED-STD 1002 requires that telecommunication facilities and systems of the Federal Government use time and frequency reference information based upon coordinated universal time (UTC).

(b) The standard terminology for use in solicitation documents is:

> All applicable telecommunication facilities and systems that are offered or used as a result of this solicitation shall be referenced to the time and frequency standard specified in FED-STD 1002.

[43 FR 34144, Aug. 3, 1978]

§ 101-36.1308-2 FED-STD 1005, Coding and Modulation Requirements for Nondiversity 2400 Bit/Second Modems.

(a) FED-STD 1005 establishes the coding and modulation requirements for 2400 bit per second modems owned or leased by the Federal Government for use over analog transmission channels other than those derived from high-frequency radio facilities.

(b) The standard terminology for use in solicitation documents is:

> All nondiversity 2400 bit per second modems that are offered or used as a result of this solicitation and are to be used on 4kHz channels derived from either switched networks or dedicated lines must comply with FED-STD 1005.

[43 FR 34144, Aug. 3, 1978]

§ 101-36.1308-3 FED-STD 1006, Coding and Modulation Requirements for 4800 Bit/Second Modems.

(a) FED-STD 1006 requires that all Federal departments and agencies shall comply with the standard in the design and procurement of telecommunication systems and equipment having a requirement for 4800 bit per second modems used with nominal 4kHz analog channels.

(b) The standard terminology for use in solicitation documents is:

> All 4800 bit per second modems (and equipment containing 4800 bit per second modems) that may be proposed as a result of this solicitation for use with nominal 4kHz analog channels must comply with FED-STD 1006.

[43 FR 34144, Aug. 3, 1978]

§ 101-36.1308-x

(See Temporary Regulation F-497 published at 46 FR 3022, January 13, 1981.)

§ 101-36.1309 Joint FIPS/FED-STD.

This section provides standard terminology for use in solicitation documents applicable to Joint Federal Information Processing Standards and Federal Telecommunication Standards.

[43 FR 34144, Aug. 3, 1978]

§ 101-36.1309-1 FIPS PUB 37/FED-STD 1001, Synchronous High Speed Data Signaling Rates Between Data Terminal Equipment and Data Communication Equipment.

(a) FIPS PUB 37/FED-STD 1001 establishes signaling rate requirements for data terminal and data processing equipment which is (1) employed with synchronous data communication equipment and (2) designed to operate on binary encoded information over wideband communication channels having greater bandwidth than the normal 4KHz bandwidth commonly used in analog voice transmission. (Technical specifications of the standard are contained in American National Standard X3.36-1975, Synchronous High Speed Data Signaling Rates Between Data Terminal Equipment and Data Communication Equipment.)

(b) The standard terminology for use in solicitation documents is:

> All applicable equipment or services resulting from this solicitation that are employed with synchronous data communication equipment designed to operate on binary coded information over wideband communication channels must comply with FIPS PUB 37/FED-STD 1001.

[43 FR 34144, Aug. 3, 1978]

§ 101-36.1309-2 FIPS PUB 16-1/FED-STD 1010, Bit Sequencing of the Code for Information Interchange in Serial-By-Bit Data Transmission.

(a) FIPS PUB 16-1/FED-STD 1010 specifies the method of transmitting the Standard Code for Information Interchange, FIPS PUB 1, in serial-by-bit, serial-by-character data transmission. FIPS PUB 16-1 supersedes FIPS PUB 16 and reflects changes necessary to accommodate FIPS PUB 1 when operating in either 7- or 8-bit coded environments. The standard is applicable to the transmission of the standard code in a serial bit stream form at the interface between data terminal equipment and data communication equipment. Data terminal equipment transmitting an approved Federal subset or superset of FIPS PUB 1 must comply with FIPS PUB 16-1/FED-STD 1010. (Technical specifications of the standard are contained in American National Standard X3.15-1976, Bit Sequencing of the American National Standard Code for Information Interchange in Serial-By-Bit Data Transmission.)

(b) The standard terminology for use in solicitation documents is:

All applicable equipment or services that may result from this solicitation, transmitting in a serial-by-bit, serial-by-character mode, must be capable of bit sequencing as prescribed in FIPS PUB 16-1/FED-STD 1010 for the transmission of the Standard Code for Information Interchange, FIPS PUB 1, at the interface between data terminal equipment and data communication equipment.

[43 FR 34144, Aug. 3, 1978]

§ 101-36.1309-3 FIPS PUB 17-1/FED-STD 1011, Character Structure and Character Parity Sense for Serial-By-Bit Data Communication in the Code for Information Interchange.

(a) FIPS PUB 17-1/FED-STD 1011 specifies the method of transmitting the Standard Code for Information Interchange, FIPS PUB 1, in the serial-by-bit, serial-by-character data transmission. FIPS PUB 17-1 supersedes FIPS PUB 17 and reflects changes necessary to accommodate revisions prescribed in FIPS PUB 1 when operating in either 7- or 8-bit coded environments. The standard is applicable at the interface between data terminal equipment and data communication equipment. Data terminal equipment transmitting an approved Federal subset or superset of FIPS PUB 1 must comply with FIPS PUB 17-1/FED-STD 1011. (Technical specifications of the standard are contained in American National Standard X3.16-1976, Character Structure and Character Parity Sense for Serial-By-Bit Data Communication in the American National Standard Code for Information Interchange.)

(b) The standard terminology for use in solicitation documents is:

All applicable equipment that may result from this solicitation, transmitting in a serial-by-bit, serial-by-character synchronous or asynchronous mode, must be capable of transmitting the character structure and sense of character parity prescribed in FIPS PUB 17-1/FED-STD 1011 for the transmission of the Standard Code for Information Interchange, FIPS PUB 1, at the interface between data terminal equipment and data communication equipment.

[43 FR 34145, Aug. 3, 1978]

§ 101-36.1309-4 FIPS PUB 18-1/FED-STD 1012, Character Structure and Character Parity Sense for Parallel-By-Bit Data Communication in the Code for Information Interchange.

(a) FIPS PUB 18-1/FED-STD 1012 specifies the channel assignment for transmitting the Standard Code for Information Interchange, FIPS PUB 1, in parallel-by-bit, serial-by-character data transmission. FIPS PUB 18-1 supersedes FIPS PUB 18 and reflects changes necessary to accommodate revisions prescribed by FIPS PUB 1 when operating in either 7- or 8-bit coded environments. The standard is applicable at the interface between data terminal equipment and data communication equipment. Data terminal equipment transmitting an approved Federal subset or superset of FIPS PUB 1 must comply with FIPS PUB 18-1/FED-STD 1012. (Technical specifications of the standard are contained in American National Standard X3.25-1976, Character Structure and Character Parity Sense for Parallel-By-Bit Data Communication in the American National Standard Code for Information Interchange.)

(b) The standard terminology for use in solicitation documents is:

All applicable equipment or services that may result from this solicitation, transmitting in a parallel-by-bit, serial-by-character mode, must be capable of transmitting the character structure and sense of character parity prescribed in FIPS PUB 18-1/FED-STD 1012, when transmitting the Standard Code for Information Interchange, FIPS PUB 1, or an approved Federal subset (FIPS PUB 15) at the interface between data terminal equipment and data communication equipment.

[43 FR 34145, Aug. 3, 1978]

§ 101-36.1309-5 FIPS PUB 22-1/FED-STD 1013, Synchronous Signaling Rates Between Data Terminal and Data Communication Equipment.

(a) FIPS PUB 22-1/FED-STD 1013 specifies the rates of transferring binary encoded information in synchronous serial or parallel form between data processing terminal and data communication equipment that employ voice band communication facilities. FIPS PUB 22-1 supersedes FIPS PUB 22 and reflects changes made to the corresponding American National Standard X3.1-1976. (Technical specifications of the standard are contained in American National Standard X3.1-1976, Synchronous Signaling Rates for Data Transmission.)

(b) The standard terminology for use in solicitation documents is:

All applicable equipment or services resulting from this solicitation that are employed in conjunction with synchronous data communication equipment designed to operate on binary encoded information in either serial or parallel fashion over voice grade communication channels of nominal 4KHz bandwidth must comply with FIPS PUB 22-1/FED-STD 1013.

[43 FR 34145, Aug. 3, 1978]

Subpart 101-36.14—Computer Performance Evaluation and ADP Simulation

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(a).

SOURCE: 38 FR 22228, Aug. 17, 1973, unless otherwise noted. Redesignated at 43 FR 27191, June 23, 1978.

§ 101-36.1400 Scope of subpart.

(a) This subpart establishes policies and procedures for obtaining the ADP simulation and computer performance evaluation services provided by the Federal Computer Performance Evaluation and Simulation Center.

(b) The provisions of this subpart apply to all Federal agencies. These provisions are not applicable to Government contractors.

§ 101-36.1401 Definitions.

(a) *Computer performance evaluation.* Computer performance evaluation is the measurement or simulation of system software and hardware performance in the normal processing environment in order to identify any possible improvements in portions of the systems software or modifications of hardware configuration.

(b) *ADP simulation.* ADP simulation is the physical or mathematical representation of all or part of a computer system (including software) used for predicting or evaluating performance.

§ 101-36.1402 Functions of the Federal Computer Performance Evaluation and Simulation Center.

The Federal Computer Performance Evaluation and Simulation Center is operated by the Department of the Air Force under a delegation of authority from the Administrator of General Services. It provides technical assistance, support, and service on a reimbursable basis throughout the Federal Government for simulation, analysis, and performance evaluation of automatic data processing systems and is the primary source of supply for these services.

§ 101-36.1402-1 Services available.

(a) Services available nationally are comprised of internal resources and contractual services for computer systems simulation and performance evaluation. These services include simulation languages and packages for computer system simulations, software and hardware monitors for computer system performance evaluation, and special software programs designed to support computer system simulation and performance evaluation efforts, such as accounting systems analysis and workload modeling. The Center's services also include personal services such as those provided by simulation analysts. If the Center is unable to fulfill the requirement or if the requirement can be more economically fulfilled through commercial sources, the Center will authorize procurement of services through the requesting agency's applicable procurement activity.

(b) The services that the Center provides to an agency are intended to be temporary in nature and in response to specific questions or problems. A continuous simulation and performance evaluation program in support of individual user operations was not intended when the Center was established.

§ 101-36.1402-2 Joint Policy Committee for ADP Simulation.

A Joint Policy Committee for ADP Simulation has been established to provide overall policy guidance for management of the Center. Representatives from the Department of Defense, Department of the Air Force, National Bureau of Standards, and the General Services Administration are permanent members of this committee. Temporary membership is extended to agencies that are major users of the services provided by the Center. The Joint Policy Committee reviews and approves rates for services provided by the Center and approves requests for equipment or services required for operation. Disagreements arising between users and the Center which cannot be resolved are to be referred to the Joint Policy Committee for resolution.

§ 101-36.1402-3 Policy for obtaining ADP simulation and computer performance evaluation and services from the Federal Computer Performance Evaluation and Simulation Center.

(a) The Center is the primary source of supply for Federal agencies for ADP simulation and computer performance evaluation requirements, services, and products, including but not limited to computer systems simulators and hardware and software monitors. The Center provides using agencies with these ADP services at the least possible cost to the Government.

(b) The Center authorizes or issues all Government contracts for ADP simulation and performance evaluation systems.

(c) The Center authorizes or issues all Government contracts for software and hardware computer performance monitors.

(d) The Center advises whether a particular contract or ADP schedule is an appropriate source of supply or whether a new negotiated competition or sole source procurement is necessary for services which it cannot provide.

(e) Until the Department of the Air Force informs GSA of its ability to contract on a mutually agreeable, reimbursable basis for all ADP simulation services, including hardware and software performance monitors, GSA may negotiate such contracts or ADP schedules. Any ADP simulation contracts/schedules issued by GSA will include provisions requiring that agencies contact the Center for authorization prior to ordering from these contracts/schedules.

§ 101-36.1403 Procedure for obtaining ADP simulation and computer performance evaluation services from the Federal Computer Performance Evaluation and Simulation Center.

(a) Agencies requiring ADP simulation, computer performance evaluation assistance, hardware performance monitors, software performance monitoring packages, or other computer performance evaluation products or services shall contact the Center. The mailing address is: Department of the Air Force, Federal Computer Performance Evaluation and Simulation Center (FEDSIM), Washington, DC 20330.

(b) The Center provides or authorizes the requested services by the lowest cost available alternative or combination of alternatives listed below:

(1) By providing services from its own resources on a reimbursable basis to the requesting agency;

(2) By procuring, on a reimbursable basis, the necessary support from com-

mercial sources for the requesting agency;

(3) By authorizing the requesting agency's procurement activity to:

(i) Procure necessary support from the ADP schedule or other existing contractual instruments; or

(ii) Execute a contract for services on either a negotiated competition or sole source basis; or

(4) By recommending to GSA that GSA procure required resources or issue a delegation of procurement authority to the requesting agency where unusual legal or procurement policy issues so dictate.

(c) If no action is taken by the Center within 20 workdays after receipt of full information from an agency involving a request for services, the agency may proceed as if a delegation of authority had, in fact, been granted. (To establish a common understanding of the 20 workday period, the Center will provide written verification of the date of receipt of the request. This date is subject to written modification by the Center if after review it is found that the request does not contain the full information required, or if unusual circumstances surrounding the procurement dictate that a longer period of time is required for the Center to complete its appraisal.)

[38 FR 22228, Aug. 17, 1973, as amended at 39 FR 11081, Mar. 25, 1974. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-36.1404 GSA responsibilities.

GSA will periodically reimburse the Department of the Air Force from the Automatic Data Processing Fund for its cost applicable to the operation of the Center. GSA will bill users for services provided by the Center.

Subpart 101-36.15 [Reserved]

Subpart 101-36.16—Federal Software Exchange Program

SOURCE: 41 FR 8169, Feb. 25, 1976, unless otherwise noted. Redesignated at 43 FR 27191, June 23, 1978.

§ 101-36.1600 Scope of subpart.

This subpart provides policy and procedures describing the Federal Software Exchange Program, the reporting of common-use ADP software to the Federal Software Exchange Center (FSEC), and subsequent use of this information for Government-wide sharing. The Software Exchange Program will gather only computer programs and logically related sets of computer programs. No data files or data bases will be included. No private or personal data will constitute any portion of the computer programs to be reported and exchanged by FSEC. This program, administered by the General Services Administration (GSA), is established to promote the sharing of computer programs and/or other related documentation. While the resources and aid of FSEC/GSA will be extended to users in obtaining information concerning technical problems with software released through FSEC, the ultimate responsibility for successful implementation of all programs rests with the user.

§ 101-36.1601 Applicability.

The provisions of this subpart are applicable to all Federal agencies (as defined in § 101-36.201(a) having ADP facilities, resources, or requirements. This subpart is applicable to common-use software developed or revised by either Government or contractor personnel. This subpart is not applicable to software that is classified, proprietary, or developed with revolving funds where reimbursement of all costs is required, such as the ADP Fund. Nor is it applicable to software to which the Government does not possess the full rights of ownership.

§ 101-36.1602 Definitions.

Terms used in this subpart are defined as follows:

(a) "Software" means all programs and routines used to extend the capabilities of computers, as distinct from "hardware" and "firmware." Software includes independent subroutines, related groups of routines, single programs, and sets or systems of programs.

(b) "Common-use software" means that portion of software which deals with problems common to many agencies, that would be useful to other agencies, and is written in such a way that minor variations in requirements can be accommodated without significant programming effort. Examples of such software are: Management business applications, computer systems support and utility programs, simulators, scientific or engineering applications, programming aids which are application-independent, and bibliographic or textual programs.

(c) "Computer program" means an identifiable series of instructions or statements, in a form acceptable to a computer, prepared to achieve a certain result.

(d) "Automated data system" means a set of logically related computer programs designed to accomplish specific objectives or functions.

(e) "Software summary" means a condensed description or abstract of a computer program or automated data system.

(f) "Federal Software Exchange Center (FSEC)" means an organization established pursuant to the authority of the Administrator of General Services for the collection, announcement, bibliographic control, and dissemination of common-use software among Federal agencies.

(g) "Federal Software Exchange Catalog" means a reference publication, maintained by FSEC, which summarizes information about Government-owned common-use software produced by and for Federal agencies.

§ 101-36.1603 Common-use software.

For the purpose of this subpart, common-use software is that which:

(a) Satisfies the definition of § 101-36.1602(b).

(b) Has been tested and proven operational for at least 90 days and is maintained by or for a Federal agency.

(c) Is composed of stand-alone subroutines, programs, or subsystems; i.e., not dependent on special or unique hardware options or software features unless such options or features can be readily translated or simulated for hardware other than the original and can be similarly useful on different hardware.

(d) Was developed by Government personnel or through contract or grant with Government funding. (If it was developed under contract or grant, all rights of ownership to the software must be vested in the Government.)

§ 101-36.1604 Program operation and policy guidance.

The Federal Software Exchange Program is operated by GSA or its authorized representative pursuant to the overall policy guidance and direction of GSA. The regional Agency Services Coordination Divisions of ADTS will handle direct operational contact with agencies as outlined in § 101-36.1609.

§ 101-36.1605 Program objectives.

The objectives of the Software Exchange Program are to provide for the:

(a) Collection of common-use software information.

(b) Development and maintenance of a listing of common-use software to minimize the redevelopment of programs already tested and in use elsewhere.

(c) Publication and distribution of a software exchange catalog containing abstracts of common-use software.

(d) Dissemination of common-use software and/or documentation; and

(e) Reduction of overall costs, time, and use of personnel resources for software acquisition and/or development.

§ 101-36.1606 Services performed by the Federal Software Exchange Center (FSEC).

The functions of FSEC include:

(a) Maintaining a central library of summary descriptions of common-use programs and systems, including a complete index of this inventory and master copies of requested programs, systems, and documentation.

(b) Editing, screening, and compiling agency abstracts of common-use programs or systems submitted for exchange by Federal agencies.

(c) Functioning as a central point of contact with agencies for information and dissemination of available software.

(d) Publishing and distributing the basic Federal Software Exchange Catalog with periodic updates.

(e) Assisting Federal agencies in identifying currently available software to satisfy their requirements.

(f) Assisting agencies in obtaining information concering technical problems with software released through FSEC.

(g) Notifying agencies of changes to software obtained through FSEC.

§ 101-36.1607 Agency actions.

Federal agencies are required to:

(a) Continually review software within the agency to identify programs or systems which would be of use to other agencies meeting the criteria set forth in § 101-36.1603.

(b) Submit abstracts of programs meeting the criteria in § 101-36.1603 to FSEC, National Technical Information Service, Springfield, VA 22151, on Standard Form (SF) 185, Federal Information Processing Standard Software Summary. Common-use programs and systems meeting the specified criteria will be described and reported to FSEC on a continuing basis. In addition to the instructions on SF 185, the GSA publication, ADP Management Information Systems, ADP MIS Reporting Procedures, Appendices A, D, and E, shall be used for information concerning organization codes, computer manufacturers, and models.

(c) Notify FSEC, using SF 185, of changes to software previously reported. Such changes should have been adequately tested to ensure the effective performance of the software.

(d) Notify FSEC, using SF 185, of previously reported programs that the agency no longer maintains. (Reports shall be made within 30 days after terminating maintenance.)

(e) Make a one-time submission, within 15 days of receipt of the FSEC request, of an actual program and/or its documentation. System program documentation shall be provided to the extent that it can be implemented by other users and should contain as a minimum the following:

(1) A narrative;

(2) User instructions which should include program interface requirements, system resource requirements, identity of the computer on which the software is operational, program language, the name, number and release of the system under which the software is operating, applicable data communications interface requirements and applicable error message descriptions, with recommended corrective actions;

(3) A broad logic flowchart to indicate the ease of removal or addition of program modules;

(4) Sample inputs and outputs; and

(5) Program listing of the source and object coding as well as available cross-reference listings generated by the applicable assembler or compiler.

(f) Notify FSEC of technical problems with software submitted to or obtained from FSEC within 15 days of detection of the problem.

NOTE: The submitting agency will not be responsible to another agency for the maintenance of software submitted to FSEC that has been implemented in another agency. The reports required by this FPMR have been cleared in accordance with FPMR 101-11.11 and are exempt from reports control.

§ 101-36.1608 Arrangements and guidelines for use of the Software Exchange Program.

(a) Agencies having requirements for software that they plan to acquire from commercial sources shall screen existing Federal ADP software resources by reviewing the Federal Software Exchange Catalog or by obtaining assistance from FSEC to meet its software requirements.

(b) Programs or systems listed in the Federal Software Exchange Catalog are available through FSEC which will contact the contributing agency for the requested documentation and/or programs. The contributing agency shall send the documentation and a copy of the program on either tape or cards to FSEC only once per program.

(c) FSEC will make a copy of both the documentation and the program to be kept on file for future requests. FSEC will provide the software package to the requesting agency at the published price.

§ 101-36.1609 Effect on the software procurement process.

(a) When an agency is unsuccessful in obtaining the required software from those available through FSEC, the usual procedures for the procurement of software; i.e., submitting GSA Form 2068, Request for ADP Services, or submitting an Agency Procurement Request (APR), will be followed. In these instances, the provisions of § 101-36.203-2 apply to the development of custom software services, and the provisions of § 101-36.404 apply to proprietary software packages.

(b) The agency shall include a certification statement on GSA Form 2068 or on the APR that FSEC was screened unsuccessfully on a specified date. A delegation of procurement authority will not be granted if such certification is not provided.

§ 101-36.1610 Form availability.

Supplies of Standard Form 185 may be obtained by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office providing support to the requesting activity.

§ 101-36.1611 Federal Software Exchange Catalog availability.

The Federal Software Exchange Catalog of common-use programs and systems may be obtained from the National Technical Information Service, Springfield, VA 22151. Revisions to the catalog will be published quarterly.

§ 101-36.1612 Software Exchange Program review.

GSA will review FSEC after it has been operational for a period of 6 months, and at least annually thereafter, to determine the efficiency of operations, effectiveness of mission, and significance of software cost avoidance realized.

§ 101-36.1613 Assistance by GSA.

Assistance in any phase of the Software Exchange Program covered by this subpart may be obtained by contacting the General Services Administration (CPC), Washington, D.C. 20405, or the appropriate regional Agency Services Coordination Division.

[41 FR 8169, Feb. 25, 1976. Redesignated and amended at 43 FR 27191, June 23, 1978]

Subparts 101-36.17—101-36.46 [Reserved]

Subpart 101-36.47—Reports

§ 101-36.4700 Scope of subpart.

This subpart sets forth the reports required by this Part 101-36 and prescribes instructions for submission of the reports.

[33 FR 147, Jan. 5, 1968. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-36.4701 Reporting of sharing and services obtained from a commercial source.

ADP sharing accomplished by Federal agencies shall be reported directly by ADP units as provided in § 101-36.4701-1 or reported centrally as provided in § 101-36.4701-2. In this connection, ADP sharing means the use of available ADP resources by organizations that the organization providing the resource does not have a primary mission responsibility to support. This would include sharing on a reimbursable or nonreimbursable basis. When submitting revised GSA Form 2068-A, June 1975, Quarterly Report of ADP Service (illustrated in § 101-36.4902-2068-A), agencies shall report in attachments to Item 9, "Total Other," information on unbundled services such as systems engineering, ADP training, and related ADP services which are acquired separately. Unbundling is the establishment of separate prices for ADP support services which were previously provided with ADP equipment at no additional cost; e.g., ADP training and systems engineering services. Systems engineering services is the assistance in data processing related to:

(a) Systems analysis and design;

(b) Application design and development;

(c) Program design and development;

(d) Conversion and implementation planning; and/or

(e) Installation evaluation and improvement.

[36 FR 5911, Mar. 31, 1971, as amended at 40 FR 48135, Oct. 14, 1975. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-36.4701-1 Reports by ADP units.

Reports of sharing and of services obtained from a commercial source by ADP units shall be submitted on GSA Form 2068A to the appropriate ADP sharing exchange not later than the 15th of January, April, July, and October of each year. (See GSA Bulletin FPMR F-115 for current ADP sharing exchange addresses.)

[46 FR 8513, Jan. 27, 1981]

§ 101-36.4701-2 Centralized reporting.

Federal agencies may elect to submit quarterly reports on a centralized basis at any organizational level desired. Federal agencies electing this method of reporting shall inform the General Services Administration (CISE), Washington, DC 20405, to this effect and explain the reporting procedures to be followed.

[46 FR 8513, Jan. 27, 1981]

§ 101-36.4701-3 Reports control.

Interagency Report Control Number 1106-GSA-QU-T has been assigned to revised GSA Form 2068-A, June 1975, Quarterly Report of ADP Service.

[40 FR 48135, Oct. 14, 1975. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-36.4702 Reporting excess or exchange/sale ADPE.

Excess ADPE or exchange/sale ADPE shall be reported on an original and four copies of SF 120, Report of Excess Personal Property (illustrated at § 101-36.4901-120), and, when necessary, SF 120A, Continuation Sheet (Report of Excess Personal Property). (Excess ADP supplies and support equipment, as defined in § 101-36.301-1(d), with an OAC of $1,500 or less shall be reported to the Federal Property Resources Service for regional office screening in accordance with § 101-43.4801.) Any questions should be referred to the General Services Administration (CISE), Washington, DC 20405, for resolution.

(a) The SF 120 shall be submitted to the above address by the holding agency at least 90 calendar days before the anticipated release date as determined by the holding agency. This report is exempt from reports control in accordance with FPMR Subpart 101-11.11. Excess ADPE in the hands of Government contractors may be reported on an appropriate contractor inventory appended to an SF 120: *Provided,* The reporting format includes an adequate commercial description and other appropriate data required by paragraph (b) of this section.

(b) The SF 120 shall include the appropriate condition code designation as defined in § 101-43.4801 and shall contain the manufacturer's name, equipment type and model number, and full description of the ADPE to determine whether the ADPE may satisfy another agency's requirement. Since ADPE suppliers have adopted no uniform method of identifying certain ADPE systems, components, features, cables, or other devices, such as terminators and junction boxes used with the equipment, the complete nomenclature for this equipment as used by the supplier shall be identified and reported on the SF 120. Parts or devices shall not be removed after reporting the ADPE to GSA as excess. If any part or device has been removed from the ADPE, a statement identifying those parts or devices shall be made on the SF 120. In addition, the status of each individual component and feature shall be shown to indicate whether it is leased, purchased, or leased with option to purchase. If the equipment is leased or leased with option to purchase, the fair value shall be shown on the SF 120. The fair value is the difference between the original acquisition cost and accrued purchase option credits. Government owned and leased ADPE shall not be reported on the same SF 120.

(c) By the time Government-owned ADPE becomes excess to an agency's needs, it may be obsolete in relation to new technology, or the supplier may no longer produce the equipment or develop and maintain software necessary for the operation of the equipment. Accordingly, information such as the availability of software packages, engineering drawings, maintenance manuals, and other technical literature relating to Government-owned ADPE shall be included on the SF 120.

(d) The words "Exchange/Sale Property" and the statement: A written administrative determination has been or will be made to apply the exchange allowance or proceeds of sale to the acquisition of similar items by other than lease, shall be displayed prominently on the original and four copies of the SF 120 when reporting ADPE that is to be replaced pursuant to exchange/sale provisions of Part 101-46. Lease includes the acquisition of ADPE under any plan, e.g., fixed term, extended term rental, or other such plan wherein payments are still due. Without exception, both cash (sale) or exchange (trade-in) offers shall be solicited. The acquisition costs and the reimbursement required, which shall not be greater than the cash (sale) or exchange (trade-in) that the reporting agency has received for the specific ADPE, shall be shown on the SF 120. In addition, the following information must be forwarded with the SF 120:

(1) The identity of the offeror of the cash or exchange offer (enclose copy of offer with the SF 120);

(2) The type of replacement equipment;

(3) The method of acquisition for the replacement equipment;

(4) The anticipated purchase price for the replacement equipment;

(5) The delegation of procurement authority (DPA) number assigned by GSA for the replacement equipment if a DPA is required; and

(6) The name and telephone number of the contracting officer. Until this information is received, the equipment will not be entered into exchange/sale screening. Exchange/sale reports received with inadequate screening time (in noncompliance with the 90-day requirement in § 101-36.4702, above) will be disapproved and entered into screening as excess ADPE. If there is any change to a cash or exchange offer subsequent to the submission of an SF 120, a revised SF 120 indicating the new cash or exchange offer shall be promptly submitted to GSA. Agencies will be advised promptly, in writing, of the date the original or revised SF 120 is received by GSA. Such equipment shall not be sold or exchanged prior to written authorization from GSA. (See § 101-36.4901-120(c) for a specimen description of SF 120 when reporting exchange/sale ADPE.)

(e) Excess ADPE that is located on or within excess real property falling under the provisions of Part 101-47 shall be reported in accordance with this § 101-36.4702. The SF 120 reporting this excess ADPE to GSA shall be so annotated.

[44 FR 6100, Jan. 31, 1979, as amended at 46 FR 8513, Jan. 27, 1981]

§ 101-36.4702-1 Assignment of Automatic Release Date.

GSA will assign an Automatic Release Date (ARD) and a case number to each SF 120 and will promptly advise the reporting agency of this action in writing. When it is necessary to extend an assigned ARD in order to reutilize ADPE, GSA will coordinate such action with the reporting agency.

[37 FR 8878, May 2, 1972. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-36.4702-2 Withdrawal of reports of excess or exchange/sale ADPE.

(a) A written request (letter or amended SF 120) for the withdrawal of ADPE previously reported on an SF 120 will normally be approved by GSA only if received within 15 workdays from the date the SF 120 was received by GSA. This request shall reference the assigned GSA case number and provide a statement which indicates the specific use to be made of the withdrawn equipment. Examples of specific use are contained in § 101-36.303-2(a)(2). Disposition of property shall not be made until after approval of withdrawal is received from GSA. GSA will not approve the withdrawal of equipment for cannibalization or maintenance by redundancy until it is first determined that there is not a more ecomonical use within the Government.

(b) Agencies shall not request withdrawal of excess ADPE for other uses unless fully justified in accordance with agency approval procedures and cost benefit analyses which take into account the program and cost benefits to be derived by the new uses of the ADPE, the cost of operating and maintaining the ADPE, and, alternatively, the cost of acquiring and operating other ADPE to serve the same purposes.

(c) ADPE withdrawn in accordance with these provisions which subsequently becomes excess must be reported excess again in accordance with the provisions of § 101-36.4702.

[37 FR 8878, May 2, 1972. Redesignated at 43 FR 27191, June 23, 1978, and amended at 43 FR 50180, Oct. 27, 1978]

§ 101-36.4702-3 Corrections to reports of excess or exchange/sale ADPE.

Corrections to previously submitted reports of excess or exchange/sale ADPE shall be made on a properly completed SF 120 which references the assigned GSA case number.

[37 FR 8879, May 2, 1972. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-36.4702-4 Annual reporting requirements.

Subpart 101-43.47 provides guidance on the annual reporting requirements on the utilization and disposal of all personal property.

[43 FR 50180, Oct. 27, 1978]

Subpart 101-36.48—Exhibits

§ 101-36.4800 Scope of subpart.

This subpart contains the addresses, locations, and designations of ADP sharing exchanges.

[35 FR 10294, June 24, 1970. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-36.4801 ADP Sharing Exchange addresses.

GSA Region 1, ADP Sharing Exchange, Boston, MA: General Services Administration (1CP), John W. McCormack Post Office and Courthouse, Room 817, Boston, MA 02109. Telephone: Commercial, 617-223-6277; FTS, 223-6277.

GSA Region 2, ADP Sharing Exchange, New York, NY: General Services Administration (2CP), 26 Federal Plaza, New York, NY 10007. Telephone: Commercial, 212-264-3631; FTS, 264-3631.

GSA Region 3, ADP Sharing Exchange, Washington, DC: General Services Administration (3CP), 7th and D Streets, SW., Washington, DC 20407. Telephone: Commercial, 202-472-1638; FTS, 472-1638.

Philadelphia ADP Sharing Exchange, General Services Administration (3CTON), William J. Green, Jr., Federal Building, 600 Arch Street, Room 9400, Philadelphia, PA 19106. Telephone: Commercial, 215-597-7918; FTS, 597-7918.

Tidewater ADP Sharing Exchange, Headquarters 5th Naval District, Norfolk, VA 23511. Telephone: Commercial, 804-444-7571; FTS, 954-7571; Autovon, 690-7571.

GSA Region 4, ADP Sharing Exchange, Atlanta, GA: General Services Administration (4CP), 1776 Peachtree Street, NW., Atlanta, GA 30309. Telephone: Commercial, 404-881-3456; FTS, 257-3456; Autovon, 588-3591.

GSA Region 5, ADP Sharing Exchange, Chicago, IL: General Services Administration (5CP), 230 South Dearborn Street, Chicago, IL 60604. Telephone: Commercial, 312-886-3820; FTS, 886-3820.

GSA Region 6, ADP Sharing Exchange, Kansas City, MO: General Services Administration (6CP), 1500 East Bannister Road, Kansas City, MO 64131. Telephone: Commercial, 816-926-7540; FTS, 926-7540; Autovon, 465-7540.

GSA Region 7, ADP Sharing Exchange, Fort Worth, TX: General Services Administration (7CP), 819 Taylor Street, Fort Worth, TX 76102, Telephone: Commercial, 817-334-3684; FTS, 334-3684.

GSA Region 8, ADP Sharing Exchange, Denver, CO: General Services Administration (8CP), Building 41, Denver Federal Center, Denver, CO 80225. Telephone: Commercial, 303-234-2466; FTS, 234-2466.

GSA Region 9, ADP Sharing Exchange, San Francisco, CA: General Services Administration (9CP), 525 Market Street, San Francisco, CA 94105. Telephone: Commercial, 415-556-7877; FTS, 556-7877.

Southern California ADP Sharing Exchange, General Services Administration (9CD-1), 880 Front Street, Room 4N22, San Diego, CA 92188. Telephone: Commercial, 714-293-5587; FTS, 895-5587.

Las Vegas ADP Sharing Exchange, Nevada Operations Office of Department of Energy (DOE), P.O. Box 14100, Las Vegas, NV 89114. Telephone: Commercial, 702-734-3121; FTS, 598-3121.

Hawaii ADP Sharing Exchange, General Services Administration (9CD-2), Federal Building, Box 50011, 300 Ala Moana Blvd., Honolulu, HI 96850. Telephone: Commercial, 808-546-8636; FTS, 546-8636.

GSA Region 10, ADP Sharing Exchange, Auburn, WA: General Services Administration (10CP), GSA Center, Auburn, WA 98002. Telephone: Commercial, 206-833-6500, ext. 281; FTS, 396-5281.

Oregon ADP Sharing Exchange, Bonneville Power Administration, P.O. Box 3621, Portland, OR 97208. Telephone: Commercial, 503-234-3361; FTS, 429-4481.

[44 FR 16917, Mar. 20, 1979]

§ 101-36.4802 Map showing GSA regions and locations of ADP sharing exchanges.

NOTE: The map illustration is filed as part of the original document and does not appear in the FEDERAL REGISTER.

[40 FR 33454, Aug. 8, 1975. Redesignated at 43 FR 27191, June 23, 1978, and amended at 44 FR 16918, Mar. 20, 1979]

Subpart 101-36.49—Illustration of Forms

§ 101-36.4900 Scope of subpart.

This subpart illustrates forms prescribed or available for use in connection with subject matter covered in other subparts of Part 101-36.

[33 FR 148, Jan. 5, 1968. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-36.4901 Standard forms.

(a) The standard forms are illustrated in this section to show their text, format, and arrangement and to provide a ready source of reference. The subsection numbers in this section correspond with the standard form numbers.

(b) The standard forms illustrated in this § 101-36.4901 may be obtained from the nearest GSA supply distribution facility, unless otherwise provided in the section prescribing the form(s).

[37 FR 8879, May 2, 1972. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-36.4901-120 Standard form 120, Report of Excess Personal Property.

NOTE: The form illustrated in § 101-36.4901-120 (a) and (b) is filed as part of the original document.

[43 FR 50180, Oct. 27, 1978]

§ 101-36.4901-122 Standard Form 122, Transfer Order Excess Personal Property.

NOTE: The form illustration in § 101-36.4901-122 is filed as part of the original document.

[38 FR 8513, Apr. 3, 1973, as amended at 40 FR 49331, Oct. 22, 1975. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-36.4902 GSA forms.

(a) The GSA forms are illustrated in this § 101-36.4902 to show their text, format, and arrangement and to provide a ready source of reference. The subsection numbers in this section correspond with the GSA form numbers.

(b) Agency field offices may obtain the GSA forms illustrated in this § 101-36.4902 by submitting their requirements to their Washington headquarters office which will forward consolidated annual requirements to the General Services Administration (BRAF), Washington, DC 20405.

[33 FR 148, Jan. 5, 1968, as amended at 38 FR 8513, Apr. 3, 1973. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-36.4902-2068 GSA Form 2068, Request for ADP Service.

[40 FR 50035, Oct. 28, 1975. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-36.4902-2068A GSA Form 2068-A, Quarterly Report of ADP Service.

NOTE: The forms illustrated in §§ 101-36.4902-2068 and 101-36.4902-2068-A are filed as part of the original document.

[40 FR 50035, Oct. 28, 1975. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-36.4902-2928 GSA Form 2928, Automated Data and Telecommunications System Plan.

NOTE: The form illustrated in § 101-36.4902-2928 is filed as part of the original document.

[39 FR 19208, May 31, 1974. Redesignated at 43 FR 27191, June 23, 1978]

PART 101-37—TELECOMMUNICATIONS MANAGEMENT [1]

Sec.

101-37.000 Scope.

Subpart 101-37.1—General Provisions

101-37.101 Authorities implemented.
101-37.102 Applicability.
101-37.103 Policy.
101-37.104 Objectives.
101-37.105 Telecommunications services.
101-37.105-1 Definition of telecommunications services.
101-37.105-2 Federal Telecommunications System.
101-37.105-3 Telecommunications security services.
101-37.105-4 Use of telecommunications services.
101-37.106 Circuit management.
101-37.107 Surveys.
101-37.108 [Reserved]
101-37.109 Future ADP and telecommunications system plans.
101-37.110 Acquisition and tariff interpretation.
101-37.111 Advice and assistance.
101-37.112 The Privacy Act of 1974.

Subpart 101-37.2—Major Changes and New Installations

101-37.200 Scope of subpart.
101-37.201 General.
101-37.201-1 Changes to other than FTS.
101-37.201-2 Changes to FTS.
101-37.201-3 Changes to data telecommunications services required by procurement or sharing of automatic data processing equipment (ADPE).
101-37.201-4 Communications Management Information System (C/MIS).
101-37.201-5 Definitions.
101-37.202 Descriptions of major changes and new installations.
101-37.203 Justification of major changes and new installations.

Sec.

101-37.204 Request for FTS intercity voice network service.
101-37.204-1 General.
101-37.204-2 Information required from agencies.
101-37.205 Agency notification of cost.
101-37.206-101.37.209 [Reserved]
101-37.210 Submission of information.

Subpart 101-37.3—Utilization and Management of Telecommunications Services

101-37.301 General.
101-37.302 General requirements.
101-37.303 Telephone service.
101-37.304 Changes in telephone listings.
101-37.305 Telegraph service.
101-37.306 Forms for telegraph messages.
101-37.307 Management and control of telephone station equipment and features.
101-37.307-1 General policy.
101-37.307-2 Agency surveys and inventories.
101-37.308 Guidelines for determining telephone station equipment and feature requirements.
101-37.309 FTS intercity voice network identification symbols.
101-37.309-1 General.
101-37.309-2 Agency responsibility.
101-37.310 Data services on the FTS intercity voice network.
101-37.311 Listening-in or recording of telephone conversations.
101-37.311-1 Definitions.
101-37.311-2 Nonconsensual listening-in or recording.
101-37.311-3 Consensual listening-in or recording.
101-37.311-4 Agency responsibilities.
101-37.311-5 GSA responsibilities.
101-37.312 Toll-free telephone service.
101-37.312-1 Agency responsibilities.
101-37.312-2 GSA responsibilities.
101-37.313 Use of line identification equipment.

Subpart 101-37.4—Contracting, Negotiation, and Representation Involving Telecommunications Services

101-37.401 General.
101-37.402 Contracting.
101-37.402-1 Types of contracts.
101-37.402-2 Areawide contracts.
101-37.402-3 General-purpose contracts.
101-37.402-4 Special-purpose contracts.
101-37.403 Tariff interpretation.
101-37.404 Representation and negotiation.
101-37.405 Submission of requests.

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[1] See temporary regulation F-498 in the appendix to Subchapter D for temporary changes to Part 101-37.

Subpart 101-37.5—Telephone Information Services Provided at GSA-Operated Telephone Switchboards

Sec.
101-37.501 General.
101-37.502 Directory costs.
101-37.503 Directory printing interval and limitations.
101-37.504 Agency responsibility.
101-37.505 [Reserved]
101-37.506 Washington, D.C., switchboards.

Subpart 101-37.6—Essential Residential Telephone Service During Emergencies

101-37.601 Line load control.
101-37.602 Availability of essential service.
101-37.603 Criteria and procedures for obtaining essential service.
101-37.604 Procedures for resolution of conflicts.
101-37.605 Changes in agency essential service listing.

Subpart 101-37.7—FTS Minimize Guidelines

101-37.700 Scope and applicability of subpart.
101-37.701 Purpose.
101-37.702 Definitions.
101-37.703 Minimize guidelines for the FTS intercity voice network.
101-37.703-1 Policy.
101-37.703-2 Procedure.
101-37.703-3 Agency responsibility.
101-37.704 Minimize guidelines for the FTS Advanced Record System (ARS).
101-37.704-1 Policy.
101-37.704-2 Procedure.
101-37.704-3 Agency responsibility.

Subpart 101-37.8—FTS Precedence System

101-37.800 General.
101-37.801 Definitions.
101-37.801-1 Flash.
101-37.801-2 Immediate.
101-37.801-3 Priority.
101-37.801-4 Routine.
101-37.802 Application and use.
101-37.802-1 Telephone calls.
101-37.802-2 Messages.
101-37.803 Responsibility.

Subpart 101-37.9—101-37.48 [Reserved]

Subpart 101-37.49—Forms and Illustrations

101-37.4900 Scope of subpart.
101-37.4901 Required information for changes in telephone services.
101-37.4902 GSA forms.

AUTHORITY: Executive Order 11717 (38 FR 12315, May 11, 1973); sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)); Executive Order 11893 (41 FR 1040, Jan. 6, 1976), unless otherwise noted.

§ 101-37.000 Scope.

This Part 101-37 prescribes the policies and practices concerning the management, ordering, and use of telecommunications services and equipment by executive agencies within the United States and its insular possessions. This part prescribes the policies governing the management and operation of the Federal Telecommunications System.

[45 FR 49263, July 24, 1980]

Subpart 101-37.1—General Provisions

SOURCE: 29 FR 15621, Nov. 20, 1964, unless otherwise noted. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-37.101 Authorities implemented.

This Part 101-37 implements the following authorities: Section 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481); section 7, Act of June 14, 1946 (40 U.S.C. 295); Presidential Letter of July 1, 1949 (14 FR 3699; 3 CFR); Bureau of the Budget Bulletin 61-13, June 19, 1961; Executive Order No. 11093 of February 26, 1963 (28 FR 1851; 3 CFR); and Presidential Memorandum of August 21, 1963 (28 FR 9413; 3 CFR).

§ 101-37.102 Applicability.

The provisions of this Part 101-37 apply to all executive agencies to the extent specified in the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, or other law, except as provided in this section. Telecommunication facilities and services not specifically excluded by this § 101-37.102 are subject to the provisions of this Part 101-37.

(a) The statement of areas of understanding between the Department of Defense and General Services Administration (15 FR 8226) shall govern the applicability of this Part 101-37 to the Department of Defense. The statement of understanding between the General Services Administration and the Atomic Energy Commission, dated April 28, 1969, shall govern the applicability of this Part 101-37 to the Atomic Energy Commission.

(b) The provisions of this Part 101-37 do not apply to the requirements of the following operational telecommunications services and facilities:

(1) Federal Aviation Agency—Facilities used for regulation and protection of air traffic.

(2) National Aeronautics and Space Administration—Missile and satellite tracking facilities.

(3) Veterans Administration—Facilities installed in a hospital complex for bio-medical communications.

(4) Bureau of Prisons—Facilities installed in penal or correctional institutions to meet physical security requirements.

(5) Tennessee Valley Authority—Noncommon-use facilities peculiar to operation of TVA projects.

(c) GSA will, upon request, furnish the services provided for in this Part 101-37.

(1) To executive agencies to which this Part 101-37 may be inapplicable or of limited applicability by virtue of this section.

(2) To any other Federal agency, mixed-ownership Government corporation, the District of Columbia, the Senate, the House of Representatives, and the Architect of the Capitol, and any activity under his direction.

[29 FR 15621, Nov. 20, 1964, as amended at 35 FR 81, Jan. 3, 1970. Redesignated at 43 FR 27191, June 23, 1978 and further amended at 45 FR 49263, July 24, 1980]

§ 101-37.103 Policy.

It is the policy of the Administrator of General Services to:

(a) Provide communications services for executive agencies at the minimum total cost to the Government consistent with requirements for capacity, efficiency of operation, reliability of service, security, and programed activities.

(b) Enter into agreements with other departments and agencies which would permit their operation of special purpose communications facilities.

(c) Establish as necessary reports, reporting procedures, and forms which would provide for the Government an economical and efficient system for telecommunications management.

(d) Place maximum reliance on commercial sources for telecommunications services in accordance with the Office of Telecommunications Policy (OTP) Circular No. 13, Federal Use of Telecommunication Service, dated June 21, 1974.

[29 FR 15621, Nov. 20, 1964, as amended at 39 FR 24649, July 5, 1974; 40 FR 42358, Sept. 12, 1975. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-37.104 Objectives.

The objectives of GSA's communications program are to:

(a) Provide a unified and coordinated Federal Telecommunications System within the United States and its insular possessions designed to strengthen the national security posture and to provide economical and efficient telecommunications services for normal and emergency requirements of civil agencies and to fulfill the responsibilities of the Administrator of General Services in the development and implementation of the National Communications System.

(b) Establish policies, methods, and procedures and provide guidance for executive agencies to insure efficient and economical procurement and utilization of telecommunications facilities.

(c) Publish material in the GSA bulletin series providing program information concerning the Government-wide telecommunications services managed and operated by the Automated Data and Telecommunications Service (ADTS).

[29 FR 15621, Nov. 20, 1964. Redesignated at 43 FR 27191, June 23, 1978, and amended at 45 FR 49264, July 24, 1980]

§ 101-37.105 Telecommunications services.

[33 FR 6658, May 1, 1968. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-37.105-1 Definition of telecommunications services.

"Telecommunications services" include, without limitation, the transmission, emission, or reception of signals, signs, writing, images, sounds, or intelligence of any nature, by wire, cable, satellite, fiber optics, laser, radio, visual, or other electronic, electric, electromagnetic, or acoustically coupled means. Telecommunication facilities include equipment used for such modes of transmission as telephone, telegraph, teletypewriter, data, facsimile, telephotograph, video, audio, and such corollary items as distribution systems and communications security facilities.

[45 FR 49264, July 24, 1980]

§ 101-37.105-2 Federal Telecommunications System.

The Federal Telecommunications System (FTS) is under the overall direction and management of GSA and provides voice, record, data, and facsimile services over point-to-point and switched networks. The FTS includes the intercity voice network, the consolidated local telephone service, the Advanced Record System (ARS), the Federal Secure Telephone Service, the Federal consolidated DATACOM service, and other networks which are for the exclusive or common use of Federal agencies or support Government business. The FTS is the primary and recommended system for use by Federal employees in the conduct of Federal Government business.

[45 FR 49264, July 24, 1980]

§ 101-37.105-3 Telecommunications security services.

The FTS program provides for the installation, maintenance, and system design of telecommunications security devices and systems to aid in the operation of Federal agencies' telecommunications facilities.

[45 FR 49264, July 24, 1980]

§ 101-37.105-4 Use of telecommunications services.

The Federal Telecommunications System and other Government-provided long distance telephone services are for official Government business only. (See 43 Comp. Gen. 163.) These networks are to be used for placement of calls instead of the commercial toll network to the maximum extent practical. Use of Government facilities for personal reasons is prohibited and could result in an employee's being fined, suspended, or dismissed. 5 CFR 735.205 prohibits the use of Government property for other than officially approved activities.

[45 FR 49264, July 24, 1980]

§ 101-37.106 Circuit management.

The Federal Telecommunications System program incorporates the features of centralized procurement and management of network facilities. Federal agencies shall obtain their intercity circuits through this program.

[45 FR 49264, July 24, 1980]

§ 101-37.107 Surveys.

GSA, in coordination with the agency involved, will survey executive agency requirements for, and utilization of, telecommunication facilities and services and will advise and assist executive agencies in the implementation of improvements determined, with due regard to the program activities of the agency involved, to be advantageous to the Government in terms of economy, efficiency, or service.

§ 101-37.108 [Reserved]

§ 101-37.109 Future ADP and telecommunications system plans.

Information concerning the annual submission to GSA of future plans for automated data and telecommunications systems is in Subpart 101-36.15.

[39 FR 19211, May 31, 1974. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-37.110 Acquisition and tariff interpretation.

GSA develops and implements policies and procedures for the acquisition of telecommunications services and facilities by executive agencies. GSA also furnishes advice and assistance concerning appropriate acquisition procedures, including tariff interpretation, to executive agencies upon request.

[45 FR 49264, July 24, 1980]

§ 101-37.111 Advice and assistance.

GSA will provide assistance to executive agencies regarding telecommunications services and facilities, including communications program development, delineation of communications requirements, security, equipment, and related services and methods and procedures for developing the capability for efficient telecommunications operations. Except as otherwise provided, requests for advice and assistance concerning this Part 101-37 should be addressed to: General Services Administration (CP), Washington, DC 20405.

[45 FR 49264, July 24, 1980]

§ 101-37.112 The Privacy Act of 1974.

The Privacy Act of 1974 (5 U.S.C. 552a) (Act) establishes administrative procedures regarding the implementation and use of systems of records dealing with personal data. The Act also requires the provision of appropriate safeguards to protect against threats and hazards to systems of records. Regulations concerning GSA's privacy safeguards with regard to ADP and telecommunications as required by the Act are in Subpart 101-35.17.

[45 FR 49264, July 24, 1980]

Subpart 101-37.2—Major Changes and New Installations [1]

§ 101-37.200 Scope of subpart.

(a) This subpart prescribes the policies and procedures to be used when considering major changes or new installations of telecommunications facilities.

[45 FR 49264, July 24, 1980]

§ 101-37.201 General.

Executive agencies considering changes, relocations, replacements, or new installations of telecommunications services or facilities are subject to the provisions of this Subpart 101-37.2. The using and ordering of telecommunications services and facilities are subject to the provisions of Subparts 101-37.3 and 101-37.4.

NOTE: Agencies must report usage of the FTS intercity voice network for data, facsimile, and record transmission in accordance with § 101-37.310.

[41 FR 16802, Apr. 22, 1976. Redesignated at 43 FR 27191, June 23, 1978 and amended at 45 FR 49264, July 24, 1980]

§ 101-37.201-1 Changes to other than FTS.

(a) Executive agencies considering major changes in telecommunications facilities or the installation of new facilities, as described in § 101-37.202, shall notify GSA, in writing, 20 workdays before the agency intends to initiate any change or acquisition action. GSA will approve or disapprove the request within the 20-workday period provided that sufficient supporting data, as specified in § 101-37.203 or § 101-37.402 or both, are initially furnished.

NOTE: All telecommunications that fall under the scope of this § 101-37.201-1 shall be acquired through the maximum use of competition in accordance with the agency procedures and current Federal Procurement Regulations (FPR).

(1) If no action is taken by GSA within the 20 workdays after receipt of a request from an agency, subject to the modifications stated in paragraph (a)(2) of this section, the agency concerned may proceed as if, in fact, approval has been granted.

(2) To establish a common understanding of the 20-workday period, GSA will provide written verification identifying the date of receipt of the request. This workday period is subject to written modification by GSA if it is found after review that the request does not contain the full information required or unusual circumstances dictate a longer period to time for GSA to complete its evaluation.

(b) If GSA disapproves a request for a non-FTS major change or installation of new facilities, the requesting agency shall not make arrangements to effect the disapproved request.

[35 FR 81, Jan. 3, 1970. Redesignated at 43 FR 27191, June 23, 1978 and amended at 45 FR 49264, July 24, 1980]

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[1] See Temporary Regulation F-498 in the appendix to Subchapter F for temporary changes to Subpart 101-37.2.

§ 101-37.201-2 Changes to FTS.

Major changes, as described in § 101-37.202, to any element of the FTS must be approved by GSA. Executive agencies desiring FTS changes shall send a written request to GSA as far in advance as possible. Changes to existing FTS service shall be requested at least 60 calendar days before the implementation date, and where customer provided equipment; e.g., interconnect PBX's or customer-owned modems is involved, this lead time shall be at least 90 calendar days. GSA will approve or disapprove the request as quickly as possible. If the request is approved, GSA will take action to provide the desired facilities and services. Minor changes to the FTS may be made by the agencies, provided GSA is given concurrent notification. Contract terms and conditions do not permit agencies to make any changes to the ARS. GSA approval must be obtained in advance for all ARS changes. However, minor ARS changes normally will be approved immediately.

[45 FR 49265, July 24, 1980]

§ 101-37.201-3 Changes to data telecommunications services required by procurement or sharing of automatic data processing equipment (ADPE).

(a) When data telecommunications services are required in connection with the procurement of ADPE, the sharing of Government ADP resources, or commercial ADP time sharing, a telecommunications study is required as prescribed in Subpart 101-36.11 prior to formal submission to GSA.

(b) Changes in or installation of new data telecommunications services associated with the procurement of ADPE are subject to the provisions of this Subpart 101-37.2. When Subpart 101-36.4 requires a submission to GSA, the agency procurement request shall also include the information required by § 101-37.203(c).

(c) When data telecommunications services are required in connection with sharing of Government ADP resources or commercial ADP time sharing, § 101-36.203 shall be complied with prior to formal submission under this subpart.

[41 FR 16802, Apr. 22, 1976. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-37.201-4 Communications Management Information System (C/MIS).

GSA operates and maintains the C/MIS, which provides a current inventory of the executive agencies' local and intercity data, facsimile, and record telecommunications facilities and systems. This inventory is derived from the information provided by agencies as required by § 101-37.203(c) of this subpart. C/MIS applies to all executive agencies except as provided in § 101-37.102.

[41 FR 16802, Apr. 22, 1976. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-37.201-5 Definitions.

Terms used in this subpart are defined as follows:

(a) "Local dialing area" is the geographical area within which a telephone call can be made for which no commercial long distance toll charge or other similar charge can be assessed.

(b) "Intercity data, facsimile, and record telecommunications services" are services which are used primarily to send and/or receive data, facsimile, and record telecommunications transmissions to a location or locations outside the local dialing area in which the transmission originates. This definition includes data, facsimile, and record telecommunications services used for local access to a commercial or Government-provided intercity network. It excludes those telecommunications services integral to the Teleprocessing Services Program (TSP). Severable telecommunications services for TSP are subject to this subpart.

(c) "Local data, facsimile, and record telecommunications services" are services which are used exclusively to send and/or receive data, facsimile, and record telecommunications transmissions to a location or locations within the local dialing area in which the transmission originates.

(d) "Data, facsimile, and record telecommunications services" are telecommunications services used for all types of data transmission, including data, facsimile, graphic, and record (including teletypewriter and telegraph) transmission but not including services used exclusively for voice, radio, video or audio transmission, or secure telecommunications purposes.

[41 FR 16802, Apr. 22, 1976. Redesignated at 43 FR 27191, June 23, 1978 and amended at 45 FR 49265, July 24, 1980]

§ 101-37.202 Descriptions of major changes and new installations.

For the purpose of this Subpart 101-37.2, the following shall be deemed major changes or new installations of telecommunications facilities:

(a) *Local telephone service.* (1) Installation, relocation, replacement, or removal of private branch exchanges (PBX) Centrex service, or Automatic Call Distributor (ACD) equipment. (For the purpose of § 101-37.203(a)(1), and ACD is considered to be PBX equipment.)

(2)-(4) [Reserved]

(5) Installation, relocation, replacement, or removal of 25 or more individual business lines in association with key telephone systems.

(6) Installation, augmentation, replacement, or removal of tielines and between private branch exchanges.

(7)-(8) [Reserved]

(9) Installation of telecommunications equipment of any type for which termination liability in excess of $50,000 must be assumed on the removal of the equipment and/or service connection charges, plant construction charges, engineering charges, or minimum revenue guarantees in excess of $50,000, or for which the annual lease cost or purchase price (including annual maintenance costs) is in excess of $50,000.

(10) Installation of 200 or more station lines to any PBX where that PBX is directly connected to the FTS intercity voice network.

(11)-(12) [Reserved]

(b) *Intercity telephone service.* Installation or replacement of voice facilities interconnecting service points located in separate exchange areas. These facilities include Wide Area Telephone Services (WATS), foreign exchange (FX) circuits, and other intercity private lines, including toll-free circuit arrangements which allow the public to make long distance calls at Government expense. These toll-free arrangements include but are not limited to Inward Wide Area Telephone Service (INWATS or dial 800) and foreign exchange (FX) circuits.

(c) *Data, facsimile, and record telecommunications services.* Installation, replacement, relocation, removal, or use of local and intercity data, facsimile, and record telecommunications services (including data, facsimile, and record transmission channels or equipment, either electrically, electronically, or acoustically coupled) including multiplexing facilities, regardless of transmission speed.

(d) [Reserved]

(e) *Communications security service.* (1) Installation, relocation, or removal of one or more pieces of communications security and related equipment.

(2) Commencement or discontinuance of maintenance support arrangements (including repair or rebuilding) for communications security and related equipment.

(f) *Radio service.* Installations involving the extension or major change to existing systems or the implementation of new systems.

(g) *Video and audio service.* (1) Installation, change, or removal of all or any significant part of video and audio service or systems when the services (whether procured or leased) are to be between two or more separate buildings.

(2) Installation, change, or removal of video and audio service (whether procured or leased) within a single Government building. Video and audio service within a single building used for training, monitoring of technical processes, medical purposes, or for guard and protection purposes are exempted.

[29 FR 15622, Nov. 20, 1964, as amended at 39 FR 13264, Apr. 12, 1974. Redesignated at 43 FR 27191, June 23, 1978, and amended at 43 FR 40228, Sept. 11, 1978; 45 FR 49265, July 24, 1980; 46 FR 7983, Jan. 26, 1981]

§ 101-37.203 Justification of major changes and new installations.

The specific information required for each major change in or installation of FTS and non-FTS telecommunications facilities is shown below. When the request involves the ordering of a communication circuit by GSA the National Communications System (NCS) circuit restoration priority assignment with justification shall be included with the request. If no priority is desired the request should so state. Changes to the priority assignment will be reported to GSA as they occur.

(a) *Local telephone service.* (1) Information shall be provided as prescribed in the chart illustrated in § 101-37.4901.

(2) Telephone operator cost data, where required, shall be submitted on GSA Form 217, Telephone Operator Cost Data, in accordance with the instructions provided thereon. Copies of GSA Form 217 may be obtained as required from the GSA regional offices.

(3) In addition to the information required in paragraphs (a) (1) and (2), of this section, the requests for ACD's shall include a statement that the monitoring, service observing, or listening-in features of ACD's will be removed or disabled at the time of installation. These features are prohibited, and existing as well as future ACD's shall have this function removed unless specifically authorized. (See § 101-37.311.)

(b) *Intercity telephone service.* (1) The requesting agency shall describe the intercity requirement and include the average number of messages per business day, average conversation time per message, average operator time per message, and average percent of messages in the busy hour based on 5 workdays. The information should include toll calls originating at either end of the proposed circuit. A copy of the telephone company's monthly statement of the toll calls, including charges originating at either end of the proposed intercity circuit, should be furnished.

(2) Agency requests for intercity toll-free service to be provided to the public shall include a description of the requirement, the program to be supported, the purpose to be served, the type of service required (INWATS, FX, etc.), the location of each number (the telephone number is not required), the terminations, the service band, the estimated monthly cost, the number of circuits serving each number, the proposed usage (number of hours, full period, etc.), and either the title and date of the regulatory document if the service has been directed by a statute, Executive order, or other regulation; and certification of compliance with 31 U.S.C. 680(a), unless authorized by statute.

(c) *Data, facsimile, and record telecommunications services.* Agencies shall complete the appropriate items in GSA Forms 2936, 2936-A, 2936-B, 2936-C, and 2936-D which are illustrated in § 101-37.4902. Agencies may obtain assistance in completing these forms from the General Services Administration (CDSR), Washington, DC 20405. These reports have been cleared in accordance with FPMR 101-11.11 and are exempt from reports control.

(d) [Reserved]

(e) *Communications security service.* Prior to submitting a request for communications security service, agencies shall initially submit written notification that a requirement exists for service in the communications security and privacy areas. Subsequent arrangements to satisfy the needs of the agencies will be based on agreements developed by the requesting agency and GSA. GSA provides for the repair and maintenance of secure electronic telecommunications equipment and operates a network known as the Federal Secure Telephone Service.

(f) *Radio service.* The information required by GSA in order to approve or disapprove major changes and new installations to agency radio services is obtained through the Interdepartment Radio Advisory Committee of the Office of Telecommunications Policy. Separate submission to GSA for radio services approval is not required unless additional information is needed on specific projects. GSA will initiate the action in these instances. However, agencies are required to make annual radio system planning

80-141 O - 81 - 31

submissions direct to GSA. (See Subpart 101-36.15.)

(g) *Video and audio service.* Agencies shall describe the purpose for which the service is required, including a brief description of the system, a listing of the major equipment items, a listing of the terminal locations of the system, the transmission mode (radio or cable), the hours of service, and the estimated cost for the system.

[29 FR 15622, Nov. 20, 1964, as amended at 39 FR 19943, June 5, 1974; 40 FR 39866, Aug. 29, 1975; 41 FR 16803, Apr. 22, 1976; 41 FR 46297, Oct. 20, 1976; 42 FR 58522, Nov. 10, 1977. Redesignated and amended at 43 FR 27191, June 23, 1978; 45 FR 49265, July 24, 1980; 46 FR 7983, Jan. 26, 1981]

§ 101-37.204 Request for FTS intercity voice network service.

[37 FR 22795, Oct. 25, 1972. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-37.204-1 General.

Intercity telephone service is provided to agencies by GSA through the intercity voice network of the Federal Telecommunications System (FTS). Each subscriber agency is informed in advance of the charges that will be allocated to it for normal FTS intercity telephone service for the ensuing fiscal year. During the course of the fiscal year new locations may be provided access to the network as a result of an agency request. Prior to providing service GSA will make an analysis to determine the method of access and required facilities and evaluate the economic feasibility to the Government. Requests for intercity network service will be considered in relation to current and future requirements for local telephone service. Whenever possible GSA will endeavor to provide both local and intercity telephone service under a single coordinated service arrangement.

[37 FR 22795, Oct. 25, 1972. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-37.204-2 Information required from agencies.

Requests for FTS intercity voice network service shall include the NCS circuit restoration priority assignment with a justification, or a statement that no priority is needed, in addition to the following requested information:

(a) Street address or building number where access to the network is required;

(b) Name, address, and telephone number of an agency contact for installation coordination;

(c) Toll bills for three recent consecutive months (If the request is for a new location or is based on an anticipated traffic increase, an estimate of the daily number of intercity calls by destination should be submitted.);

(d) The number and length of calls placed over private line services; e.g., FX, WATS, and private line networks;

(e) Seasonal traffic variations, if any;

(f) A description of the present service arrangements, including the number and cost of business lines and extensions, or if for a PBX, the number and cost of main and extension stations, type of equipment, type and quantity of attendant positions, number of central office trunks, FX, WATS, and tielines;

(g) If a change in present service is contemplated, a description of the proposed service arrangement is required in addition to the information requested in paragraph (f) of this section. This description must include the proposed number and cost of main and extension stations, number and type of attendant positions, quantity of central office trunks or business lines, FX, WATS, and tielines; and

(h) Length of time the service is required; i.e., part time (12 hours or less per day) or full time (more than 12 hours per day).

[37 FR 22795, Oct. 25, 1972, as amended at 40 FR 39866, Aug. 29, 1975. Redesignated at 43 FR 27191, June 23, 1978 and amended at 45 FR 49265, July 24, 1980]

§ 101-37.205 Agency notification of cost.

GSA will approve or disapprove the request as promptly as possible and will inform the agency of its determination. For those locations where intercity telephone service is approved, agencies shall assume any additional cost of providing the service beyond that previously provided for the remainder of the current fiscal year and the ensuring fiscal year. For those locations where FTS service is disapproved as not economically feasible on the basis of the information submitted, the agency may formally request that the location be provided service as an essential operational necessity. In such instances all facility cost associated with the installation shall be borne by the requesting agency for the current and subsequent years.

[37 FR 22795, Oct. 25, 1972. Redesignated at 43 FR 27191, June 23, 1978]

§§ 101-37.206—101-37.209 [Reserved]

§ 101-37.210 Submission of information.

Requests for changes and the required justifications submitted in accordance with this Subpart 101-37.2 shall be addressed to the appropriate regional Agency Services Coordination Division (CP) or to the General Services Administration (CP), Washington, D.C. 20405.

[38 FR 8514, Apr. 3, 1973. Redesignated at 43 FR 27191, June 23, 1978]

Subpart 101-37.3—Utilization and Management of Telecommunications Services

§ 101-37.301 General.

This subpart provides policy and describes procedures concerning the utilization, management, and ordering of telecommunications services and facilities. Major changes and new system installations of telecommunications are subject to Subpart 101-37.2.

[45 FR 49265, July 24, 1980]

§ 101-37.302 General requirements.

(a) *Advance notice.* Telecommunications plans, service requests, and orders should be submitted as far as possible in advance of the date the service is desired to allow leadtime for planning and scheduling of work.

(b) [Reserved]

(c) *Restrictions.* Installations or changes other than those called for in the order shall not be made without amending the existing order or preparing a new order.

(d) *Exclusive use costs.* At locations served by GSA systems, the cost of exclusive use agency telecommunications equipment and services will be identified and billed to the using agency whenever practical.

(e) *Agency telecommunications management program.* Each agency shall have a telecommunications management program, suited to its size, organization, and mission needs. The program should recognize the applicability of Part 101-37 and should extend to all levels of the agency's organization. A goal of every telecommunications management program should be to increase the employees' awareness of what they can do to reduce the high cost of telecommunications services.

[43 FR 27192, June 23, 1978, as amended at 45 FR 49266, July 24, 1980]

§ 101-37.303 Telephone service.

(a) *Form for ordering service.* Standard Form 145, Order for Telephone Service, and Standard Form 145A, Continuation Sheet—Order for Telephone Service, are prescribed for use by Federal agencies in ordering telephone service from Government joint-use and GSA-operated or GSA-managed switchboards. Federal Government agencies with service provided from GSA-operated or GSA-managed switchboards shall forward all requests for telephone service to the serving switchboard.

(b) *Preparation of orders.* Instructions for the preparation of Standard Form 145, Order for Telephone Service, are provided on the flyleaf of each pad of forms. Any necessary supplemental or clarifying instructions will be issued by GSA regional offices.

[37 FR 24665, Nov. 18, 1972. Redesignated at 43 FR 27191, June 23, 1978, and amended at 43 FR 27192, June 23, 1978]

§ 101-37.304 Changes in telephone listings.

Standard Form 146, Changes in Telephone Listings, shall be used to request changes in telephone listings. It shall be submitted in accordance with instructions on the form.

[29 FR 15623, Nov. 20, 1964. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-37.305 Telegraph service.

Orders or requests for changes in and new installations or removal of telegraph facilities shall be submitted by letter, memorandum, Standard Form 145, or appropriate agency purchase order form.

[29 FR 15623, Nov. 20, 1964. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-37.306 Forms for telegraph messages.

Standard Form 14, Telegraphic Message, is prescribed for use within the United States by executive agencies in preparing official Government telegrams, teletype messages, and other messages for transmission by wire and cable or radio communications facilities. Instructions for the preparation and use of Standard Form 14 are included as a part of the cited form. Appropriate special forms may be used in lieu of Standard Form 14 when messages are to be transmitted by facsimile and for certain data messages requiring prearranged format.

[29 FR 15623, Nov. 20, 1964. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-37.307 Management and control of telephone station equipment and features.

[45 FR 49266, July 24, 1980]

§ 101-37.307-1 General policy.

Telephone station equipment is a major element of telecommunications system costs and the most visible aspect of communications. This equipment should meet the needs of the agencies at the lowest overall cost to the Government. Telephone station equipment requirements shall be determined through a detailed analysis of the functions and operations of the applicable office. Economy, efficiency, and the ability of the telephone system to support the mission and goals of the organization shall be the primary considerations in the selection of telephone equipment and facilities.

[45 FR 49266, July 24, 1980]

§ 101-37.307-2 Agency surveys and inventories.

(a) To ensure continuing cost-effective use of telephone station equipment, each agency shall make a complete survey annually. Survey documentation shall be retained in the agency's files until superseded. In addition, agencies shall conduct surveys of installed station equipment where major relocations, reorganizations, or staffing changes impact telephone station equipment cost.

(b) Subject to personnel availability, GSA will provide assistance upon request in the conduct of surveys of agency offices. The survey will normally be conducted within 3 months of the request.

(c) Each agency that obtains GSA consolidated service will receive by May 1 of each year a computerized listing of telephone service as posted in GSA records as of March 31. Agencies shall validate this listing. The validated listing shall be returned to the office specified by the serving GSA region not later than June 30 of each year. GSA will arrange to correct all billing errors as documented by the agency. The errors will be corrected by August 31.

(d) Each agency shall maintain a program to provide for surveys and inventories at those offices not receiving GSA-consolidated service. GSA will provide assistance and training to agencies in developing survey and inventory programs. Upon request and subject to personnel availability, GSA will conduct surveys on major agency-operated systems on a reimbursable basis.

[45 FR 49266, July 24, 1980]

§ 101-37.308 Guidelines for determining telephone station equipment and feature requirements.

(a) *Definitions.* Terms used in this subpart are defined as follows:

(1) "Electronic switching system (ESS)" means a computerized telephone system with software control that typically offers a variety of station equipment features. The term encompasses both computerized branch exchanges (CBX) with switching equipment located on the customer's

premises and electronic switching systems (ESS), which typically have switching equipment located on the vendor's premises.

(2) "Electronic features" mean computer-controlled station equipment features of ESS type systems, whether preprogrammed or station-user activated by entering codes from the telephone set. Typical electronic features are call forwarding, call pickup, call hold, call park, speed calling, call queuing, etc.

(b) *Station equipment analysis.*

(1) Telephone station equipment and related features shall be determined by a study of agency operational and mission requirements. The study shall include an analysis of all available station equipment options with mission, goals, and cost being the main considerations in the final selection. The range of alternative station equipment design for an office will be determined by the capabilities of the serving switching system.

(2) Electronic features, including dual tone multifrequency (DTMF) tone signal dialing, can often be used to functionally replace the electromechanical features provided by multiline key telephones. Charges for electronic features vary widely depending on local tariffs for systems leased from tariffed telephone companies and pricing schemes of vendors of nontariffed telephone systems. Only a systematic analysis of alternative station equipment configurations (all key, all single line, or a combination of key and single line) will provide the basis for selection of the best station equipment application.

(3) Mandatory considerations to be used in the selection of telephone station equipment are cost, performance, and the features of alternative telephone systems. These considerations should be used in developing cost/benefit studies.

(c) *Restricted features and equipment.*

(1) Features should not be added to existing station equipment without considering the results of the cost/benefit study called for in paragraph (b)(3) of this section.

(2) Auxiliary telephone station equipment and features, including but not limited to automatic dialing equipment, speakerphones, call diverters, automatic ring lines (hot lines), bell chimes, and music on hold, must be justified annually on the basis of mission, goals, and operational need. Agencies shall establish internal regulations to limit the use of auxiliary equipment and features. (These features and anciallary devices can add substantially to cost, and provide only occasional benefits.)

[45 FR 49266, July 24, 1980]

§101-37.309 FTS intercity voice network identification symbols.

[41 FR 36207, Aug. 27, 1976. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-37.309-1 General.

Each Federal agency authorized to use the FTS intercity voice network will be assigned a six-digit FTS identification symbol by the General Services Administration. The FTS identification symbol is required only for placing calls from commercial telephones to FTS telephones and authorizes FTS operators to complete the call. GSA will revise these FTS identification symbols periodically to assist agencies in ensuring that only authorized personnel have them. These symbols will be distributed by the GSA Central Office to heads of agencies or their designated control personnel. GSA will not distribute these symbols to other agency personnel.

[45 FR 49266, July 24, 1980]

§ 101-37.309-2 Agency responsibility.

(a) Each agency shall issue the six-digit FTS identification symbol to only those FTS users who are authorized to place FTS calls from commerical telephones to FTS intercity voice network telephones. FTS operators will not accept calls from commerical telephones unless the caller furnishes a valid FTS identification symbol and the seven-digit FTS telephone number being called. Restricted issuance of the FTS identification symbol is essential since its use is considered certification that these calls are official.

NOTE: Each agency is responsible for controlling its use of the FTS intercity voice network and shall limit use to only those users authorized by the agency. Agencies shall issue to these users the four-digit agency bureau code provided to them by GSA. This four-digit code is used by GSA for sampling purposes.

(b) Agencies shall instruct users who place telephone calls from FTS telephones through an FTS operator to non-FTS telephones to provide the FTS operators with their FTS telephone number and the telephone number being called. FTS operators will not accept calls unless the caller furnishes this information.

[45 FR 49267, July 24, 1980]

§ 101-37.310 Data services on the FTS intercity voice network.

The intercity voice network is available under controlled conditions for direct subscriber access by Federal agencies or their approved cost reimbursement contractors for the transmission of data which can be accommodated over normal voice-grade, unconditioned switched channels.

(a) Federal agencies using the FTS intercity voice network for data shall submit no later than 30 calendar days after the end of each quarter usage reports on GSA Form 2830, Individual Terminal Usage of FTS Intercity Voice Network Data Transmission (Originating Traffic Only). Reports shall be forwarded to the General Services Administration (CXM), Washington, DC 20405.

(b) A quarterly report of usage need not be submitted for that part of agency traffic that is carried over the FTS intercity voice network under the GSA Teleprocessing Services Contract because this traffic will be reported to GSA by the contractor.

(c) GSA will render a quarterly bill to the agency headquarters based on agency quarterly usage as reported in § 101-37.310 (a) and (b) of this section.

(d) Agency field offices may obtain GSA Form 2830 by submitting requirements to their Washington headquarters office, which will forward consolidated annual requirements to the General Services Administration (BRAF), Washington, DC 20405. Agencies that have a substantial requirement for GSA Form 2830 may use a copy of the form for printing a supply for internal agency use.

(e) This report has been cleared in accordance with FPMR 101-11.11 and is exempt from reports control.

[39 FR 24649, July 5, 1974. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-37.311 Listening-in or recording of telephone conversations.

This section describes the limited circumstances under which listening-in or recording of telephone conversations may be performed by Federal agencies and prescribes policies that limit the practice within the Federal Government.

NOTE: The provisions of this § 101-37.311 do not apply to telecommunications monitoring conducted in accordance with Executive Order 12036. Nothing in this regulation shall be construed as authorization for the listening-in or recording of any telephone conversations for the purpose of committing any criminal or tortious act in violation of the Constitution of the laws of the United States.

[46 FR 19472, Mar. 31, 1981]

§ 101-37.311-1 Definitions.

(a) "Consensual" means that one party to a telephone conversation has given prior consent to the interception or recording of the conversation.

(b) "Nonconsensual" means that none of the parties to a telephone conversation has given consent to the interception or recording of the conversation.

(c) "Listening-in devices" as used in this subpart means such devices that can intercept any telephone communication and be used to listen-in and/or record telephone conversations without the knowledge of one or more of the parties to the conversation.

(d) "Determination" means a written document (usually a letter) that specifies the operational need for listening-in or recording of telephone conversations, indicates the specific system and location where it is to be performed, lists the number of telephones and/or recorders involved, establishes operating times and an expiration date, and justifies the use. It is signed by the agency head or the agency head's designee.

[46 FR 19472, Mar. 31, 1981]

§ 101-37.311-2 Nonconsensual listening-in or recording.

Nonconsensual listening-in or recording of telephone conversations shall be authorized and handled in accordance with the requirements of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (18 U.S.C. 2510 et seq.), and the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

[46 FR 19473, Mar. 31, 1981]

§ 101-37.311-3 Consensual listening-in or recording.

Consensual listening-in or recording of telephone conversations on the Federal Telecommunications System or any other telephone system approved in accordance with the Federal Property and Administrative Services Act of 1949, section 201(a) (1) and (3) (40 U.S.C. 481(a) (1) and (3)), and implementing regulations thereof is prohibited except under the following conditions:

(a) When performed for law enforcement purposes in accordance with procedures established by the agency head, as required by the Attorney General's Guidelines for Administration of the Omnibus Crime Control and Safe Streets Act of 1968, and in accordance with procedures established by the Attorney General.

(b) When performed for counter-intelligence purposes and approved by the Attorney General or the Attorney General's designee.

(c) When performed by any Federal employee for public safety purposes and when documented by a written determination of the agency head or the designee citing the public safety needs. The determination must identify the segment of the public needing protection and cite examples of the hurt, injury, danger, or risks from which the public is to be protected. Examples of these practices are police and fire department operations, air traffic safety control, and air/sea rescue operations.

(d) When performed by a handicapped employee, provided a physician has certified (and the head of the agency or designee concurs) that the employee is physically handicapped and the head of the agency or designee determines that the use of a listening-in or recording device is required to fully perform the duties of the official position description. Equipment shall be for the exclusive use of the handicapped employee. The records of any interceptions by handicapped employees shall be used, safeguarded, and destroyed in accordance with appropriate agency records management and disposition systems.

(e) When performed by any Federal agency for service monitoring but only after analysis of alternatives and a determination by the agency head or the agency head's designee that monitoring is required to effectively perform the agency mission. Strict controls must be established and adhered to for this type of monitoring. (See § 101-37.311-4 on agency responsibilities for minimal procedures.)

(f) When performed by any Federal employee with the consent of all parties for each specific instance. This includes telephone conferences, secretarial recording, and other acceptable administrative practices. Strict supervisory controls shall be maintained to eliminate any possible abuse of this privilege. The agency head or the agency head's designee shall be informed of this capability for listening-in or recording telephone conversations.

[46 FR 19473, Mar. 31, 1981]

§ 101-37.311-4 Agency responsibilities.

Each agency shall ensure that:

(a) All listening-in or recording of telephone conversations as defined in § 101-37.311-3 (c), (d), or (e) shall have a written determination approved by the agency head or the agency head's designee before operations.

(b) Service personnel who monitor listening-in or recording devices shall be designated in writing (see § 101-37.311-3(e)) and shall be provided with written policies covering telephone conversation monitoring. These policies shall contain at a minimum the following instructions:

(1) No telephone call shall be monitored unless the Federal agency has taken continuous positive action to inform the callers of the monitoring.

(2) No data identifying the caller shall be recorded by the monitoring party.

(3) The number of calls to be monitored shall be kept to the minimum necessary to compose a statistically valid sample.

(4) Agencies using telephone instruments that are subject to being monitored shall conspicuously label them with a statement to that effect.

(5) Since no identifying data of the calling party will be recorded, information obtained by the monitoring shall not be used against the calling party.

(c) Current copies and subsequent changes of agency documentation, determinations, policies, and procedures supporting operations under § 101-37.311-3 (c), (d), or (e) shall be forwarded before the operational date to the General Services Administration (CPEP), Washington, DC 20405. Specific telephones shall be identified in the documentation and/or determination to prevent any possible abuse of the authority.

(d) Procedures for monitoring performed under § 101-37.311-3(a) (law enforcement) shall contain at a minimum:

(1) The identity of an agency official who is authorized to approve the actions in advance;

(2) An emergency procedure for use when advanced approval is not possible;

(3) Adequate documentation on all actions taken;

(4) Records administration and dissemination procedures; and

(5) Reporting requirements.

(e) Requests to the General Services Administration for acquisition approval and/or installation of telephone listening-in or recording devices shall be accompanied by a determination as defined in § 101-37.311-1(d).

(f) A program is established to reevaluate at least every 2 years the need for each determination authorizing listening-in or recording of telephone conversations.

[46 FR 19473, Mar. 31, 1981]

§ 101-37.311-5 GSA responsibilities.

(a) GSA's Automated Data and Telecommunications Service, Office of Policy and Planning (CPEP), will be accountable for information concerning the use of listening-in or recording of telephone conversations in the Federal Government as requested under § 101-37.311-3 (c), (d), and (e).

(b) GSA will periodically review the listening-in programs within the agencies to ensure that agencies are complying with the intent of the Federal Property Management Regulations.

(c) GSA will provide assistance to agencies in determining what communications devices and practices fall within the listening-in or recording category; i.e., those that have the capacity to listen in, monitor, or intercept telephone conversations. GSA will also help develop administrative alternatives to the listening-in or recording of telephone conversations. Requests for assistance shall be addressed to: General Services Administration (CT), Washington, DC 20405.

(d) GSA will take appropriate steps to obtain compliance with this regulation if an agency has not documented its devices in accordance with this section.

[46 FR 19473, Mar. 31, 1981]

§ 101-37.312 Toll-free telephone service.

For the purpose of this subpart, toll-free telephone servcice is any incoming intercity circuit arrangement that allows the public to make long-distance telephone calls to authorized locations at Government expense. This intercity circuit arrangement includes but is not limited to Inward Wide Area Telephone Service (INWATS or dial 800) and foreign exchange (FX) circuits. The service is usually used for providing or obtaining information concerning Government programs, such as social welfare, disaster aid, veterans affairs, income tax, or health. Intercity toll-free telephone service shall be established only when the service is: (a) Essential to mission accomplishment; (b) necessary to meet program requirements; or (c) required by statute, Executive order, or other regulation.

[46 FR 7983, Jan. 26, 1981]

§ 101-37.212-1 Agency responsibilities

(a) The acquisition and management of intercity toll-free telephone service should be centrally managed within executive agencies to the greatest extent practicable. Prior approval of a responsible agency official shall be obtained for the acquisition of toll-free services.

(b) The requirement for intercity telephone service must be approved by GSA. (See § 101-37.203(b) for justification requirements.)

(c) An annual review of incoming intercity toll-free telephone services shall be conducted in accordance with agency procedures. The results of these reviews shall be retained in agency files. As a minimum, this review shall address:

(1) The need for continuing the service at the same level,

(2) Whether the existing toll-free service is the most cost effective method of satisfying the requirement, and

(3) Whether the intended program objectives are being achieved.

[46 FR 7983, Jan. 26, 1981]

§ 101-37.312-2 GSA responsibilities.

(a) GSA maintains a record of all toll-free service requests. The request lists the name of the agency, reasons for the circuits, type of service, number of circuits, terminations, and cost. This record provides a current, central, Government-wide source for managing, engineering, budgeting, and planning; and for public and congressional inquiries.

(b) GSA (CT) will assess the technical and operational efficiency and the cost of the requested toll-free service. The purpose of the assessment is to ensure that the requested service is the most effective and/ or economical arrangement from the standpoint of the Government's interest relative to the specialized requirement.

[46 FR 7983, Jan. 26, 1981]

§ 101-37.313 Use of line identification equipment.

Line identification equipment may be installed on FTS telephone facilities to assist Federal law enforcement agencies to investigate threatening telephone calls, bomb threats, and other criminal activities. No invasion of privacy is involved, and the use of this equipment does not violate the Privacy Act of 1974 or any Federal or State wiretap laws; e.g., title III of the Omnibus Crime Control and Safe Streets Act of 1968. Information and assistance may be obtained from General Services Administration (CT), Washington, DC 20405.

[46 FR 19474, Mar. 31, 1981]

Subpart 101-37.4—Contracting, Negotiation, and Representation Involving Telecommunications Services

§ 101-37.401 General.

Contracting, negotiation, and representation functions for executive agencies for telecommunications services shall be undertaken pursuant to this Subpart 101-37.4. All actions authorized by this subpart are further subject to the requirements of Subpart 101-37.2, to the extent they apply.

[35 FR 82, Jan. 3, 1970. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-37.402 Contracting.

[35 FR 82, Jan. 3, 1970. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-37.402-1 Types of contracts.

GSA will enter into areawide, general-purpose, and special-purpose contracts for telecommunications services to executive agencies as indicated in this section. GSA has special statutory authority for entering into long-term contracts not to exceed 10 years. GSA will enter into appropriate contracts with communications common carriers, upon request, when it has been determined that such contracts are advantageous to the Government in terms of economy, efficiency, and service.

[35 FR 82, Jan. 3, 1970. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-37.402-2 Areawide contracts.

Where areawide contracts have been executed, each executive agency taking service in the franchised territory of the contracting carrier shall procure services under the terms of such contract, unless a general- or special-purpose contract is deemed by GSA, in consultation with the agency concerned, to be in the best interest of the Government.

[35 FR 82, Jan. 3, 1970. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-37.402-3 General-purpose contracts.

(a) Executive agencies will make written requests to GSA to contract for general-purpose services where:

(1) No areawide contract is available;

(2) Service requirements involve annual recurring charges or termination liabilities in excess of $50,000; or

(3) Rates have not been established by a Federal or State regulatory body.

(b) Except for long-term contracts under the special statutory authority of GSA, executive agencies are authorized to enter into general-purpose contracts for requirements which are not within the specific limitations listed in § 101-37.402-3(a). One conformed copy of each such contract shall be furnished to GSA.

[35 FR 82, Jan. 3, 1970. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-37.402-4 Special-purpose contracts.

Executive agencies will make written requests to GSA to contract for special-purpose services where the requirements include:

(a) Nonstandard or special services involving annual recurring charges or termination liabilities in excess of $50,000; or

(b) Establishment of new rate centers; or

(c) Establishment of new tariffs.

[35 FR 82, Jan. 3, 1970. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-37.403 Tariff interpretation.

GSA will provide, upon request, information on published tariff rates for communications services, including tariff interpretation and application. Inquiries should set forth in detail the nature of the communications service requested, proposed carrier rate treatment, if known, and agency comments pertinent thereto.

[29 FR 15624, Nov. 20, 1964. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-37.404 Representation and negotiation.

GSA, in behalf of executive agencies, will conduct negotiations with communications carriers and suppliers and, where circumstances warrant, will institute formal or informal action, as required, before Federal and State regulatory bodies to contest the level, structure, or applicability of rates or service terms.

[29 FR 15624, Nov. 20, 1964. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-37.405 Submission of requests.

Written requests for assistance pertaining to this Subpart 101-37.4 should be addressed to the General Services Administration (CP), Washington, D.C. 20405.

[38 FR 8514, Apr. 3, 1973. Redesignated at 43 FR 27191, June 23, 1978]

Subpart 101-37.5—Telephone Information Services Provided at GSA-Operated Telephone Switchboards

SOURCE: 32 FR 8759, June 20, 1967, unless otherwise noted. Redesignated at 43 FR 27191, June 23 1978.

§ 101-37.501 General.

The General Services Administration will provide telephone and directory information services in connection with all switchboards it operates. This service includes the provision of adequate internal telephone information service for the agencies involved, as well as the handling of calls from the public. Government telephone directories will be provided by GSA to agency users at all GSA switchboards with 200 or more telephone instruments (stations) served, except as outlined in § 101-37.506.

§ 101-37.502 Directory costs.

The cost of printing and maintaining Government telephone directories is included in the local telephone service charge. Agencies are provided directories on a one-per-telephone-instrument basis plus a reasonable quantity of copies (up to 5 percent additional) for administrative purposes. Agencies will be charged at cost for copies above these normal requirements.

[41 FR 36207, Aug. 27, 1976. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-37.503 Directory printing interval and limitations.

GSA will publish directories annually unless special service requirements necessitate a more frequent interval.

§ 101-37.504 Agency responsibility.

Agencies should not duplicate this telephone directory service where GSA provides directories. Where it is determined that it is not economical to provide telephone directory service, GSA will meet basic telephone information service requirements with operator-provided information services. So that GSA can fulfill its service responsibility to the public, agencies must submit changes promptly affecting telephone listings through established local channels. Standard Form 146, Changes in Telephone Listings, is available for expediting these changes.

§ 101-37.505 [Reserved]

§ 101-37.506 Washington, D.C., switchboards.

GSA normally will not publish telephone directories for agencies located in Washington, D.C. However, these agencies, when served by a GSA-operated switchboard, must submit the SF 146 to GSA so that the information service for the public may be maintained.

Subpart 101-37.6—Essential Residential Telephone Service During Emergencies

§ 101-37.601 Line load control.

(a) An arrangement called line load control is provided by the public telephone companies so that subscribers having essential emergency functions may encounter a minimum of delay in placing calls from their residences during emergencies. The number of telephones that can be included in this arrangement is limited. Any charges for the line load control arrangement will be borne by the requesting agency.

(b) If a number has been designated "essential," all outgoing calls are put through with minimum delay while retaining generally good service, with only slight and intermittent delay to the other general public users.

[45 FR 73049, Nov. 4, 1980]

§ 101-37.602 Availability of essential service.

The head of each Federal agency will be responsible for ensuring that this service will be provided only to those key individuals whose emergency assignments require the capability to discharge emergency responsibilities and functions from their residential telephones.

[45 FR 73049, Nov. 4, 1980]

§ 101-37.603 Criteria and procedures for obtaining essential service.

(a) The agency head is responsible for establishing internal procedures necessary to ensure that the selection of employees will be made in accordance with the guidelines in paragraph (b) of this section.

(b) Normal residential telephone service will be adequate in most situations and will be subjected to the imposition of line load control only under the most critical circumstances. Therefore, each employee selected for essential service must have a responsibility or function requiring undelayed outgoing calling capability. Essentially, the person being considered must have an emergency assignment requiring the immediate discharge of responsibilities from that person's home telephone. Rank, grade, or position are not determining factors. Because of the limits of this service, selections should be held to an absolute minimum.

(c) Lists of selected employees will be prepared by the agency headquarters or subordinate field office, as directed by the agency head. The residential telephone numbers of selected employees, with names and home addresses, will be listed in alphabetical or numerical order by central office exchange letters or numbers under the appropriate area code number for the geographic area in which the employees reside. Agency listing appears below:

Area Code 301:
  439-7417 Wm L Brady 8033 New Hampshire Adelphi.
  585-7108 Paul C Richards 1137 Fidler Ch Ch.
  CO5-0743 John T Byrd 2337 Huron Forest Hts.
  WA5-0753 Thomas C Miller 2341 Elm Landover.
Area Code 703:
  460-1769 Chas P Rogers 306 Cedar Vienna.
  460-3127 John D Louis 4330 Walnut Dr Vienna.
  533-8143 Robt W Service 6711 Monroe Vienna.
  JE3-9086 R P Harris 1458 Edgewater Fls Ch.
  JE4-8926 Wm G Glover 4306 S Glebe Arl.

Listings are required in this format to facilitate handling and processing with the telephone companies involved.

(d) The lists of selected employees will be approved and certified as meeting the guidelines established in § 101-37.603 of this FPMR. Certified lists then shall be forwarded to the appropriate General Services Administration (GSA) regional office, Attention: Director, Telecommunications Division. The GSA regional office will forward the lists to the appropriate telephone company for implementation.

[33 FR 9074, June 20, 1968. Redesignated at 43 FR 27191, June 23, 1978 and amended at 45 FR 73049, Nov. 4, 1980]

§ 101-37.604 Procedures for resolution of conflicts.

(a) When a local telephone company receives more requests for essential service than it can accommodate, the appropriate GSA regional office will be notified.

(b) The GSA regional office will resolve the matter with the local or regional offices of the agencies concerned. If the problem cannot be resolved at this level, the information will be submitted to the General Services Administration, Attention: Commissioner, Automated Data and Telecommunications Service (C) (hereafter referred to as GSA Central Office).

(c) GSA Central Office will contact the agencies' national offices to effect a solution. After resolution, GSA Central Office will notify the GSA regional office concerned, which will then advise the telephone company and the agency offices involved.

[45 FR 73050, Nov. 4, 1980]

§ 101-37.605 Changes in agency essential service listing.

It is the responsibility for the agency or agency field activity to update its lists of employees requiring essential service in accordance with instructions of the agency head. Changes in these lists should be forwarded promptly to the appropriate GSA regional office for further action to add or delete these employees from line load control.

[45 FR 73050, Nov. 4, 1980]

Subpart 101-37.7—FTS Minimize Guidelines

Source: 46 FR 25618, May 8, 1981, unless otherwise noted.

§ 101-37.700 Scope and applicability of subpart.

This subpart sets forth policies and procedures for Minimize as it relates to the Federal Telecommunications System. The provisions of this Subpart 101-37.7 apply to all Federal agencies. For further information concerning these policies and procedures write to General Services Administration (CTDL), Washington, DC 20405.

§ 101-37.701 Purpose.

This subpart establishes procedures for administrative control of voice, data, and record traffic over the FTS during emergency conditions. It implements the Minimize guidelines prescribed by the National Communications System (NCS).

§ 101-37.702 Definitions.

(a) "Minimize" means an administrative control procedure that restricts or limits voice, data, and record traffic over the FTS to certain areas during an emergency or disaster to facilitate the handling of emergency and essential voice, data, and record traffic.

(b) "Emergency traffic" means voice, data, or record traffic to emergency facilities or units, to local or State officials, and/or to controlling military or civil groups that have a direct bearing on the safety of life and property.

(c) "Essential traffic" means voice, data, or record traffic considered necessary to avoid a serious impact on an agency's mission or to provide support to units that are responsible for disaster control or relief.

§ 101-37.703 Minimize guidelines for the FTS intercity voice network.

§ 101-37.703-1 Policy.

GSA has the sole responsibility to impose a Minimize condition on the FTS intercity voice network. Minimize control will apply to voice and data traffic to specific location(s) and specified telephone area code(s). Agencies may exercise their internal minimize notification system, but shall not impose Minimize upon another agency without GSA approval or direction.

§ 101-37.703-2 Procedure.

GSA will notify the agency head and communications staff by the most rapid means available, when a Minimize condition is in effect on the FTS intercity voice network. GSA regional offices will notify all major agency regional offices in their respective geographical areas of the Minimize condition. The Minimize notice will identify the city, State, and commercial telephone area code affected. The notice will emphasize that only emergency and essential voice and data traffic is to be placed to the affected area. GSA and the GSA regional offices will inform agencies when the minimize condition is canceled.

Note: Minimize to be effective requires that agencies curtail as many calls as possible. Minimize notification procedures should use cascade notification methods to disperse the calls and to expedite the notification.

§ 101-37.703-3 Agency responsibility.

Agency offices are responsible for notifying their Central Office personnel expeditiously, by whatever means they deem appropriate for their particular operation, when a Minimize condition is imposed or terminated by GSA. Intercity voice network users are to determine when their call meets the description of "emergency" or "essential." If neither description can be applied, the call shall not be initiated.

§ 101-37.704 Minimize guidelines for the FTS Advanced Record System (ARS).

§ 101-37.704-1 Policy.

GSA has the sole responsibility to impose a Minimize condition on the ARS users. Contingent upon operational conditions encountered, Minimize control may apply to only portions of the system. Agencies may exercise their Minimize internal notification system to determine response time, etc., but shall not alter any ARS messages to include the Minimize notice without GSA approval or direction. GSA will inform agencies when the Minimize condition is canceled.

§ 101-37.704-2 Procedure.

GSA will inform headquarter's offices of ARS subscriber agencies by ARS message when a Minimize condition is imposed. The Minimize notice will contain "Minimize" as the first word in the text and will identify the area affected by the action and the type of traffic to be excluded.

§ 101-37.704-3 Agency responsibility.

Headquarter's offices of subscriber agencies shall notify their field stations when an ARS Minimize condition is imposed by GSA. Writers, originators, clearance officers, signatory officials, or other designated agency representatives shall evaluate each message to determine if rapid transmission is essential and shall annotate those messages that must be sent immediately with the words "Minimize Considered."

Subpart 101-37.8—FTS Precedence System

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Source: 38 FR 8444, Apr. 2, 1973, unless otherwise noted. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-37.800 General.

This subpart provides for the establishment of a Federal Telecommunications System (FTS) Precedence System for use in all forms of voice and record communication services provided by the General Services Administration on FTS networks.

§ 101-37.801 Definitions.

For the purpose of this Subpart 101-37.8 there are four categories of precedence: Flash, Immediate, Priority, and Routine. Telephone calls and messages of a higher category take precedence over calls and messages of a lower category. However, calls and messages within a given category will be handled in the order received.

§ 101-37.801-1 Flash.

Telephone calls and messages designated Flash take precedence over and preempt all other categories and will be handled as fast as possible. Flash precedence is reserved for telephone calls and messages pertaining to command and control of military forces essential to defense and retaliation; critical intelligence essential to national survival; conduct of diplomatic negotiations critical to the arresting or limiting of hostilities; dissemination of critical civil alert information essential to national survival; continuity of Federal Government functions essential to national survival; fulfillment of critical U.S. internal security functions essential to national survival; and Presidential Action Notices essential to national survival during attack or preattack condition.

§ 101-37.801-2 Immediate.

Telephone calls and messages designated Immediate take precedence over and preempt calls and messages designated Priority or Routine. Immediate precedence is reserved generally for calls and messages pertaining to situations which gravely affect the security of national allied forces; reconstitution of forces in a postattack period; intelligence essential to national security; conduct of diplomatic negotiations to reduce or limit the threat of war; implementation of Federal Government actions essential to national survival; situations which gravely affect the internal security of the United States; civil defense actions concerning direction of the population and its survival; disasters or events of extensive seriousness having an immediate and detrimental effect on the welfare of the population; and vital information having an immediate effect on aircraft, spacecraft, or missile operations.

§ 101-37.801-3 Priority.

Telephone calls and messages designated Priority take precedence over and preempt calls and messages designated Routine. Priority precedence is reserved generally for calls and messages concerning information essential to the conduct of Government operations. Such information includes important intelligence information; important diplomatic information; important information concerning the launch, operation, or recovery of spacecraft missiles or movement of naval, air, or ground forces; and information concerning coordination among Government agencies about emergency preparedness functions; major civilian aircraft accidents; maintenance of the health, safety, and welfare of the population, critical logistic functions and provision of critical public utility services; distribution of essential food and supplies critical to health; and continuity of critical Government functions.

§ 101-37.801-4 Routine.

Normal communications which require rapid transmission, but do not require preferential handling are considered Routine. All calls and messages not specifically designated otherwise are considered Routine.

§ 101-37.802 Application and use.

Careful selection and assignment of precedence by the system user is of the utmost importance since calls and messages will be handled solely by the precedence designation given to FTS operating personnel.

§ 101-37.802-1 Telephone calls.

Precedence telephone calls are handled only by FTS operators. Automatic preemption is not available on the FTS intercity voice network. FTS operators will preempt calls only when necessary to make facilities available for a higher precedence call. FTS operators will provide assistance in handling precedence calls and will require the originator's name, agency identification number, and telephone number being called. FTS users when requested by the operator to terminate a conversation shall do so immediately. Precedence calls will be ticketed and a record of all such calls will be maintained by the General Services Administration.

§ 101-37.802-2 Messages.

Precedence messages shall be designated by the originator. This precedence is indicated in the heading of the message by a prosign (letter). Flash messages shall be designated by the prosign "Z"; Immediate messages by the prosign "O"; and Priority by the prosign "P." The Standard Form 14, Telegraphic Message, provides a heading space for precedence and should be used by agencies for this purpose. The Advanced Record System (ARS) provides for automatic message preemption. Detailed instructions for preparing messages for the ARS are contained in the ARS Routing Guide.

§ 101-37.803 Responsibility.

The head of each agency is responsible for designating personnel authorized to use the FTS Precedence System and shall ensure that authorized users adhere to the definitions and instructions contained herein. The Federal Telecommunications System will be in effect on a day-to-day basis, and, therefore, it is essential that calls meet the criteria outlined. Calls and messages shall not be assigned a precedence higher than that described by the criteria.

[39 FR 2096, Jan. 17, 1974. Redesignated at 43 FR 27191, June 23, 1978]

Subparts 101-37.9—101-37.48 [Reserved]

Subpart 101-37.49—Forms and Illustrations

§ 101-37.4900 Scope of subpart.

This subpart contains forms and illustrations prescribed or available for use in connection with subject matter covered in other subparts of 101-37.

[39 FR 19943, June 5, 1974. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-37.4901 Required information for changes in telephone services.

NOTE: The illustration in § 101-37.4901 is filed as part of the original document.

[39 FR 19943, June 5, 1974. Redesignated at 43 FR 27191, June 23, 1978]

§ 101-37.4902 GSA forms.

(a) The GSA forms that are illustrated in this § 101-37.4902 show their text, format, and arrangement and provide a ready source of reference. The subsection numbers in this section correspond with the GSA form numbers.

(b) Agency field offices may obtain the GSA forms illustrated in this § 101-37.4902 by submitting their requirements to their Washington headquarters office which shall forward consolidated annual requirements to the General Services Administration (BRO), Washington, DC 20405.

§ 101-37.4902-2936 GSA Form 2936, Data, Facsimile, and Record Telecommunications System Summary.

§ 101-37.4902-2936-A GSA Form 2936-A, Dial-up and Point-to-Point Data, Facsimile, and Record Telecommunications Services.

§ 101-37.4902-2936-B GSA Form 2936-B, Data, Facsimile, and Record Telecommunications Services Serving Computers.

§ 101-37.4902-2936-C GSA Form 2936-C, Data, Facsimile, and Record Telecommunications Multiplexing/Concentrating Services.

§ 101-37.4902-2936-D GSA Form 2936-D, Multi-Point Data, Facsimile, and Record Telecommunications Services.

NOTE: The forms illustrated in § 101-37.4902 are filed as part of the original document.

[41 FR 16803, Apr. 22, 1976. Redesignated at 43 FR 27191, June 23, 1978]

Appendix to Subchapter F—Temporary Regulations

[Editorial Note: The following is a list of temporary regulations, except delegations of authority, which relate to Federal property management and are in effect as of the revision date of this volume]

FPMR Temp. Reg.	Subject	Expires	FR Publication
[1] F-495	Sharing and procurement of ADP services.	May 1, 1982	45 FR 31313, May 13, 1980.
[1] F-496	Federal Conversion Support Center.	Sept. 30, 1981	45 FR 81202, Dec. 10, 1980.
[1] F-497	Hardware and data transmission standards.	Sept. 30, 1982	46 FR 3021, Jan. 13, 1981.
[1] F-498	GSA review of data, facsimile, and record telecommunications service requests.	June 22, 1983	46 FR 27940, May 22, 1981.

[1] These temporary regulations appear in full text below.

[FPMR Temp. Reg. F-495]

Sharing and Procurement of ADP Services

April 30, 1980.

1. *Purpose.* This regulation changes the provisions of FPMR Subpart 101-36.2 so that Federal agencies can obtain lower dollar value ADP time or services from commercial sources without submitting a GSA Form 2068, Request for ADP Service. This change will allow Federal agencies to proceed with these procurement actions without prior GSA approval. However, a determination must be made by the procuring agency that there are no Federal ADP resources or established GSA mandatory contractual resources that can meet the particular requirement.

2. *Effective date.* The provisions of this regulation become effective May 1, 1980.

3. *Expiration date.* This regulation expires May 1, 1982.

4. *Background.* FPMR Subpart 101-36.2 requires that agencies obtain an approved GSA Form 2068 before contracting for any ADP services. The current FPMR procedures are directly related to GSA's regional ADP sharing program. However, these regulations create considerable paperwork for both GSA and Federal agencies. This regulation requires only that agencies contact GSA's regional offices to ensure that ADP sharing is or is not available. If sharing is not available, the GSA regional office will advise the agency. However, submission and approval of the GSA Form 2068 will continue to be required prior to procurement action when its value is above the thresholds stated in this regulation.

5. *Applicability.* The provisions of this temporary regulation apply to all Federal agencies as defined in Subpart 101-35.2, Appendix A—Glossary of Terms.

6. *Explanation of change.* Subpart 101-36.2—Automatic Data Processing Resources Utilization is amended to allow agencies to procure ADP time or services without prior approval under specified conditions, by revising the following sections.

a. Section 101-36.203-1 is revised, as follows:

§ 101-36.203-1 ADP sharing procedures.

(a) Federal agencies shall not initiate the process of selecting and acquiring ADP time or services from commercial sources unless it is first determined that the required ADP capability cannot be met satisfactorily by utilizing existing Federal ADP resources.

(b) Federal agencies shall first attempt to satisfy their ADP requirements by screening resources of other ADP units in their vicinity. If the result of the screening is unsuccessful, the requirement shall be referred to the appropriate ADP sharing exchange for assistance in locating suitable Federal ADP resources and in making the necessary arrangements for sharing. Requests for assistance may be made by mail, telephone, teletypewriter, or personal contact.

(c) The sharing exchange will advise requestors as to the availability of existing Federal ADP resources capable of satisfying their requirements.

b. Section 101-36.203-2 is revised as follows:

§ 101-36.203-2 Authorization for commercial procurement.

(a) Agencies may procure ADP time or services without prior approval of GSA provided:

(1) ADP time or services cannot be met satisfactorily by utilizing existing Federal ADP resources; and

(2) The value of the procurement does not exceed (i) $300,000 per year cost for a competitive procurement or (ii) $50,000 per year cost for a sole source procurement.

(b) When the value of the requirement exceeds the thresholds set forth in § 101-36.203-2(a)(2), the agency shall submit a completed GSA Form 2068, Request for ADP Service (illustrated at § 101-36.4902-2068), to the General Services Administration (C), Washington, DC 20405. An approved GSA Form 2068 constitutes authorization to proceed with procurement action. Agencies are required to comply with regulatory provisions relating to competition in procurement (see particularly Federal Procurement Regulations §§ 1-1.301-1 and 1-1.302-1).

(c) If a request for ADP services will or may result in the government's acquiring title to general-purpose ADP equipment or proprietary software, GSA will process the proprietary software and equipment portions of the request as an Agency Procurement Request (APR) in a manner similar to the method described by Subpart 101-36.4. Note, software development, in contrast to proprietary software, in being, is an ADP service and as such is subject to the provisions of § 101-36.203-1.

7. *Comments.* Comments are invited concerning the effect or impact of this regulation and the policy and procedures that should be adopted in the future. Comments should be forwarded to the General Services Administration (CPEP), Washington, 20405 within 90 days of publication in the FEDERAL REGISTER.

8. *Effect on other regulations.* This temporary regulation replaces FPMR sections §§ 101-36.203-1 and 101-36.203-2. This action also supersedes the provisions of FPMR Temporary Regulation E-47 to the extent that they are in conflict with this regulation. Specifically, prior approval of GSA is not required to conduct selections under the Teleprocessing Services Program (TSP) below the thresholds set forth in §§ 101-36.203-1 and 101-36.203-2. Detailed agency reporting procedures for reporting acquisitions under TSP in accordance with the provisions of this regulation may be obtained from GSA's regional offices. These procedures will be incorporated in a formal change to the GSA Teleprocessing Services Program handbook.

R. G. FREEMAN III,
Administrator of General Services.

[45 FR 31313, May 13, 1980]

[FPMR Temp. Reg. F-496]

FEDERAL CONVERSION SUPPORT CENTER

December 2, 1980

1. *Purpose.* This regulation notifies agencies of the reimbursable services of the Federal Conversion Support Center (FCSC). FCSC specializes in ADP equipment systems and teleprocessing services software conversion assistance, guidance, and support services. This regulation makes software conversion studies mandatory under certain conditions; it removes the F-492 requirement for FCSC evaluation reports on conversion studies. It also outlines procedures for agencies to obtain software conversion support services.

2. *Effective date.* The provisions of this regulation become effective January 9, 1981, but may be observed earlier.

3. *Expiration date.* This regulation expires September 30, 1981.

4. *Applicability.* The provisions of this temporary regulation apply to all Federal agencies as defined in 41 CFR 101-35.2, Appendix A—Glossary of Terms.

5. *General.* FCSC is the primary resource for software conversion technology within the Federal Government. It is operated by GSA to provide Federal agencies with specialized expertise, techniques, and tools to conduct conversion studies and accomplish software conversions. It provides these services to Federal activities on a reimbursable basis.

6. *Definitions.*

a. The term "software conversion" means the transformation, without functional change, of computer programs or data elements to permit their use on a replacement or changed ADP equipment system or teleprocessing service.

b. The term "software conversion study" means an analysis of a conversion requirement which at a minimum includes the following information: (1) The problem definition; (2) an inventory of system components for the current system; (3) a description of the system operating environment; (4) an inventory of application programs and data files to be converted; (5) projected procurement and conversion schedules; (6) a general description of the target system (including hardware, system software, and performance requirements); (7) the recommended approach to accomplish the conversion tasks (including analyses of alternative approaches with an economic and benefit analysis for each approach); and (8) specific agency actions taken to reduce the cost and risk of future conversions.

7. *Federal Conversion Support Center Services.*

a. FCSC provides reimbursable services to the Government in all phases of software conversion. These services include: (1) the preparation of conversion studies; (2) planning, development, review, and evaluation of conversions; (3) technical and contractual conversion assistance and advice; (4) procurement of conversion services; (5) contract administration; (6) participation in agency software conversions to the extent that resources permit; and (7) performing conversions.

b. GSA will bill users for all conversion support services provided by FCSC and will reimburse the Automatic Data Processing Fund for all costs incurred in the FCSC operation.

8. *Agency mandatory requirements.*

a. A software conversion study shall be performed when one of the three following conditions exists:

(1) The estimated purchase price of the ADP equipment system is expected to exceed $2.5 million, excluding the maintenance and support cost;

Note: Even if the ADP equipment system is to be rented or leased, the purchase price shall be used to determine if the dollar value of the procurement falls within the $2.5 million threshold.

(2) The estimated systems life cost for teleprocessing services is expected to exceed $2.5 million; or

(3) The cost of conversion is to be used as the primary justification for a non-competitive (sole source) procurement when the estimated value of the procurement exceeds $300,000.

b. A software conversion study is not required when one of the three following exceptions exists:

(1) Initial acquisition where no software currently exists;

(2) Procurement for computer peripherals only; or

(3) Exercise of purchase option under leasing agreement.

c. An agency may elect to conduct its own software conversion study, use contractual resources to accomplish the study, or request FCSC to perform the study.

d. The software conversion study shall be maintained in agency files and be available for GSA review at the time that the agency submits to GSA either an agency procurement request (APR) or GSA Form 2068, Request for ADP Service.

9. *Procedures to obtain commercial conversion support services.*

a. In accordance with FPMR 101-36.203-2(a), agencies may procure commercial conversion support services without prior approval of GSA provided:

(1) Services cannot be met satisfactorily by utilizing existing Federal ADP resources; and

(2) The value of the procurement does not exceed (i) $300,000 per year cost for a competitive procurement or (ii) $50,000 per year cost for a non-competitive (sole source) procurement.

b. When the value of the requirement exceeds the above thresholds, pursuant to FPMR 101-36.203-2(b) the agency shall submit a completed GSA Form 2068, Request for ADP Service, to FCSC at the address below: General Services Administration (CFS), Federal Conversion Support Center, 5203 Leesburg Pike, Suite 1100, Falls Church, VA 22041, Telephone: (703) 756-6156, (FTS) 756-6156.

c. FCSC will respond to the request within [illegible] workdays after receipt. Upon completion of its review of the request, FCSC will advise the agency and either:

(1) Provide services from its own or other Government resources on a reimbursable basis;

(2) Procure the necessary support from commercial sources on a reimbursable basis; or

(3) Authorize the requesting agency to proceed with procurement action. (To the extent necessary, upon request FCSC may assist the requesting agency on a reimbursable basis by participating in the procurement of the required conversion services.)

10. *Effect on other directives.* This temporary regulation supplements 41 CFR Subchapter F (Parts 101-35, 36, and 37). It cancels FPMR Temporary Regulation F-492, October 18, 1979.

R. G. Freeman III,
Administrator of General Services.

[45 FR 81202, Dec. 10, 1980]

[FPMR Temp. Reg. F-497]

HARDWARE AND DATA TRANSMISSION STANDARDS

1. *Purpose.* This regulation provides standard terminology to be used in solicitation documents and guidance regarding application of Federal Information Processing Standards Publication (FIPS PUB) 71, Advanced Data Communications Control Procedures (ADCCP), and Federal Standard (FED-STD) 1003, Synchronous Bit-Oriented Data Link Procedures (Advanced Data Communication Control Procedures).

2. *Effective date.* This regulation is effective February 12, 1981, but may be observed earlier.

3. *Expiration date.* This regulation expires September 30, 1982.

4. *Background.* a. The publication of FIPS PUB 71 and FED-STD 1003, both addressing the same technical area yet not published as a joint FIPS PUB/FED-STD, created the need for this action. The intent of this regulation is to provide a uniform basis upon which agencies can determine which standard to apply; both standards are intended to reduce costs of data transmission networks and ensure interoperability.

b. FIPS PUB 71 establishes data link control procedures for data processing systems, equipment, and services using synchronous, bit-oriented data communications. FED-STD 1003 specifies the frame structure, elements of procedure, and classes of procedure for data communications systems that transmit synchronous binary data. The two standards are technically consistent, except that FED-STD 1003 contains additional requirements necessary to ensure interoperability with National Communications System (NCS) component networks.

c. The Department of Commerce plans to issue FIPS PUB 78, Guideline for Implementing Advanced Data Communication Control Procedures (ADCCP). This FIPS PUB will contain guidance regarding the planning, acquisition, and operation of ADCCP.

5. *Explanation of changes.* Two new sections are added to Subpart 101-36.13:

a. A new subsection is added to FPMR section 101-36.1304 as follows:

§ *101-36.1304-X FIPS PUB 71, Advanced Data Communications Control Procedures*

(a) FIPS PUB 71 provides that it shall be applied in the design and procurement of all ADP systems, ADP terminal equipment, and ADP services that are to be employed in computer networking or teleprocessing environments that use bit-oriented synchronous data communications. Requirements for interoperability with telecommunications networks embodying National Communications System (NCS) facilities are not provided for in FIPS PUB 71. Therefore, FED-STD 1003 (and not FIPS PUB 71) should be used in the design and procurement of data communications systems and equipment using bit-oriented link control procedures when an agency determines that NCS interoperation requirements are needed.

(b) Applicability wavier authority for FIPS PUB 71 is vested in the Secretary of Commerce rather than in the agency having the ADP requirement. Therefore, each egency should be aware that if waivers are considered appropriate, requests should be initiated early in the agency requirements determination process to avoid delay.

NOTE: When bit-oriented data link control procedures are not used, FIPS PUB 71 is not applicable; therefore, waiver procedures do not apply.

(c) In determining interoperability requirements, an agency should recognize the requirements of Presidential Directive/NSC-53, dated November 15, 1979, regarding national security telecommunications policy.

(d) Before the acceptance of applicable ADP equipment or service required to conform to FIPS PUB 71, this conformance shall be verified by demonstration or other means acceptable to the Government.

(e) The standard terminology for use in solicitation documents is:

Unless a waiver is granted following the procedures specified in FIPS PUB 71 or unless the Government's requirements include interoperation with the component networks of the National Communications System (NCS), all ADP systems, equipment, and services that are to be employed in computer networking or teleprocessing environments using bit-oriented synchronous data communications, offered as a result of this solicitation, will implement the class(es) of procedures specified in FIPS PUB 71 as stated therein.

NOTE: FED-STD 1003 (and not FIPS PUB 71) is applicable when (1) the system, equipment, or services offered as a result of this solicitation use bit-oriented synchronous data link control procedures; (2) the Government determines that it has a requirement for interoperability with NCS component networks; and (3) the equipment is not being procured as replacement for, or extension to, existing systems that do not use bit-oriented data link control procedures.

b. A new subsection is added to FPMR section 101-36.1308 as follows:

§ *101-36.1308-X FED-STD 1003, Synchronous Bit-Oriented Data Link Control Procedures (Advanced Data Communication Control Procedures)*

(a) FED-STD 1003, shall be applied in the design and procurement of systems and equipment by the Federal Government that use synchronous bit-oriented data link control procedures and that are determined by the requiring agency to require interoperability with the component networks of the National Communications System (NCS). The standard also provides that its application is not mandatory for equipment that is being procured as a complete or partial replacement for, or extension to, existing systems that do not use bit-oriented data link control procedures.

(b) In determining interoperabilility requirements, an agency should recognize the requirements of Presidential Directive/NCS-53, dated November 15, 1979, regarding national security telecommunications policy.

(c) The standard terminology for use in solicitation documents is:

All data communications systems and equipment using bit-oriented data link control procedures, offered as a result of this solicitation, will implement the class(es) of procedure specified in FED-STD 1003 as stated therein unless the Government determines that it does not have a requirement for interoperability with National Communications System (NCS) facilities or unless the requipment is being procured as replacement for, or extension to, existing systems that do not use bit-oriented data link control procedures.

NOTE: When the Government does not have a requirement for interoperation with NCS facilities, FIPS PUB 71 (and not FED-STD 1003) shall apply to all ADP systems, equipment, and services that are to be employed in computer networking or teleprocessing environments offered as a result of this solicitation.

6. *Comments.* Comments are invited concerning the effect or impact of this regulation and the policy and procedures that should be adopted in the future. Comments should be forwarded to the General Services Administration (CPEP), Washington, DC 20405, on or before April 13, 1981.

7. *Effect on other directives.* This temporary regulation supplements 41 CFR Chapter 101, Subchapter F (Part 101-36).

RAY KLINE,
Acting Administrator of General Services.

[46 FR 3022, Jan. 13, 1981]

[FPMR Temp. Reg. F-498]

GSA REVIEW OF DATA, FACSIMILE, AND RECORD TELECOMMUNICATIONS SERVICE REQUESTS

April 17, 1981.

1. *Purpose.* This regulation changes the provisions of FPMR Subpart 101-37.2 to allow agencies to obtain installation, replacement, relocation, and use of intercity data, facsimile, and record telecommunication services, including transmission channels or equipment without the review and approval of the General Services Administration when the estimated annual cost of the data telecommunication system requirement is $50,000 or less. In addition, this regulation provides for the availability of a GSA computer based model to assist agencies in making an economic/engineering analysis of their data communications requirements.

2. *Effective date.* This regulation is effective June 22, 1981, but may be observed earlier.

3. *Expiration date.* This regulation expires June 22, 1983.

4. *Background.* Subpart 101-37.2 sets forth policies and procedures regarding the processing of major changes and new installations to meet the policies and objectives of GSA's telecommunication program responsibilities. (See §§ 101-37.103 and 101-37.104.) Agency use of data telecommunication services has increased, technology has advanced, and the character of the marketplace has changed. The intent of this regulation is to deal with this changed environment, reduce paperwork burdens, and increase the economy and efficiency of Government data communication services in accordance with the objectives of GSA's telecommunications program.

5. *Applicability.* This temporary regulation applies to agencies to the extent provided in § 101-37.102.

6. *Definitions.* Definitions in § 101-37.201-5 apply to this regulation.

7. *Explanation of changes.* a. When an agency determines that the annual cost of an intercity data telecommunication system requirement is $50,000 or less, the information submission requirements for the installation, replacement, relocation, or use of data, facsimile, and record telecommunication services as set forth in § 101-37.203(c) are not required for the purpose of securing GSA approval under § 101-37.201-1 prior to the agency implementing action. A system requirement includes all circuitry and equipment (such as modems and multiplexors) but excludes ADP equipment (such as terminals and any modems embedded in them). Requirements shall not be fragmented in order to circumvent this threshold. Removal of intercity services does not require GSA approval. Local data, facsimile, and record telecommunication service requirements, regardless of dollar amount, do not require GSA approval. Under these circumstances, a blanket GSA approval for the agency to proceed with implementing action is hereby granted.

b. Before proceeding under the paragraph 7a blanket GSA approval authority, an agency shall conduct a technical and economic analysis and shall verify as appropriate that the service selected is economically feasible. The Tariff Model (see paragraph 8a, below) is a tool which can be used to reduce the effort involved in performing this technical and economic analysis while ensuring that the relevant generic types of service alternatives receive appropriate consideration. (GSA is making this interactive computer-based model available to agencies via direct access from an agency's own terminal.) The purpose of these actions is to ensure that a cost effective means is selected to meet the requirement. To the extent feasible, functional type specifications shall be used to define requirements as a means to allow maximum practicable competition. Consideration shall include utilizing the capabilities of existing data networks (see paragraph 7c, below). Agencies shall document their files with justification for their selections from the alternatives considered.

c. Agencies shall consider use of available consolidated services. GSA and the Defense Communication Agency (DCA) provide economical communications services to Federal agencies by obtaining resources in bulk quantities from commercial carriers. Economy of scale discounts are available under the DCA's Multiplex Service and GSA's Consolidated DATACOM Network, Advanced Record System (ARS), the intercity voice network of the FTS, and the value added network (VAN) billing program. (See also paragraph 8b.)

d. When an agency intends to satisfy a data, facsimile, or record telecommunication system requirement through use of the FTS intercity voice network, the agency shall verify that FTS service is available at the installation location(s). If access to the FTS intercity voice network is not available, the provisions of §§ 101-37.204, and 101-37.205, and Subpart 101-37.3 apply. Ordinarily, an agency shall submit requests for instrument-terminated station lines to the appropriate GSA Regional office. If the request includes provisions for dedicated FTS access (other than OPX or station lines), the agency may submit directly or the GSA regional office will forward the request to GSA (CPST) Washington, DC 20405 for action.

e. The provisions in paragraph 7a do not eliminate requirements for an agency (pursuant to § 101-37.201-4) to provide GSA with C/MIS information (as required by § 101-37.203(c)) when implementing action has actually taken place. In fact, these submissions will become more important to the continuing maintenance of economical and efficient Government-wide services. GSA will review agency performance under this regulation as evidenced by the C/MIS data base submissions. The requirements (pursuant to § 101-37.201-3) for data communications support for ADP systems set forth in Subpart 101-36.11 are not changed.

8. *Advice and assistance.* a. In addition to GSA assistance available to agencies as set forth in § 101-37.111, GSA has developed a computer based model for economic/engineering analysis of data telecommunication service alternatives. This model may be used by Federal agencies in estimating cost for point-to-point, star, and multiplex data telecommunications networks. The scope and limitations of the model are addressed in the user documentation. The model does not replace the function of the marketplace to determine competitively the lowest overall cost in satisfying a requirement. Agencies may request access to the computer based Tariff Model by contacting the GSA office listed in paragraph 8c, below. The use of the tariff model is discretionary since an agency may choose to perform a manual analysis of tariffed and other telecommunication services.

b. Advice and assistance concerning the description, availability, ordering, maintenance and repair, charges, and billing of available consolidated services and data services of the FTS intercity voice network may be obtained by contacting the GSA office set forth in paragraph 8c, below. Information on FTS data services is contained in GSA Bulletin FPMR F-110, July 18, 1979. Information on DATACOM service is contained in GSA Bulletin FPMR F-113, October 17, 1979.

c. For further information and assistance contact GSA (CPSR) Washington, DC 20405, telephone FTS or local 566-1133, commercial toll (202) 566-1133.

9. *Comments.* Comments are invited concerning the effect or impact of this regulation and the policy and procedures that should be adopted in the future. Comments should be forwarded to the General Services Administration (CPEP), Washington, DC 20405, on or before August 20, 1981.

RAY KLINE,
Acting Administrator of General Services.

[46 FR 27940, May 22, 1981]

SUBCHAPTER G—TRANSPORTATION AND MOTOR VEHICLES

PART 101-38—MOTOR EQUIPMENT MANAGEMENT [1]

Sec.
101-38.000 Scope of part.

Subpart 101-38.0—Definition of Terms

101-38.001 Definitions.
101-38.001-1 Acquired for official purposes.
101-38.001-2 Commercial design motor vehicles.
101-38.001-3 Military design motor vehicles.
101-38.001-4 Identification.
101-38.001-5 Metropolitan area of Washington, D.C.
101-38.001-6 Holding agency.
101-38.001-7 Using agency.
101-38.001-8 Term rental.
101-38.001-9 Trip rental.
101-38.001-10 Reportable vehicles.
101-38.001-11 Large fleet.
101-38.001-12 Small fleet.
101-38.001-13 Domestic fleet.
101-38.001-14 Foreign fleet.
101-38.001-15 Tag.
101-38.001-16 Types of vehicles.
101-38.001-17 Passenger automobiles.
101-38.001-18 Acquired.

Subpart 101-38.1—Reporting Motor Vehicle Data

101-38.100 Scope of subpart.
101-38.100-1 Reporting forms.
101-38.100-2 Federal Motor Vehicle Fleet Report.
101-38.101 Records.
101-38.102 Preparation of forms.
101-38.102-1 Reporting period and submission.
101-38.102-2 Reporting domestic and foreign vehicles.
101-38.102-3 Reporting Department of Defense Vehicles.
101-38.102-4 Reporting vehicles operated by another agency.
101-38.102-5 Reporting transferred vehicles.

Subpart 101-38.2—Registration and Inspection

101-38.201 Registration and inspection in the District of Columbia.
101-38.201-1 Registration.
101-38.201-2 Inspection.
Sec.
101-38.201-3 Charges.
101-38.202 Registration and inspection outside the District of Columbia.

Subpart 101-38.3—Official U.S. Government Tags

101-38.301 General requirements.
101-38.302 Records.
101-38.303 Procurement.
101-38.303-1 Procurement in the District of Columbia.
101-38.303-2 Procurement outside the District of Columbia.
101-38.304 Numbering and coding.
101-38.304-1 Code designations.
101-38.304-2 Request for additional code designations.
101-38.305 Display, assignment, and removal of U.S. Government tags.
101-38.305-1 Display.
101-38.305-2 Assignment.
101-38.305-3 Removal.
101-38.305-4 U.S. Government tags issued by District of Columbia.

Subpart 101-38.4—Official Legend and Agency Identification

101-38.401 General requirements.
101-38.402 Agency identification.
101-38.403 Display of legend and agency identification.
101-38.404 Procurement of decalcomanias.
101-38.405 Removal of legend and agency identification.

Subpart 101-38.5—Motor Vehicles of the Department of Defense

101-38.501 Commercial design motor vehicles.
101-38.502 Military design motor vehicles.

Subpart 101-38.6—Exemptions From Use of Official U.S. Government Tags and Other Identification

101-38.601 General requirements.
101-38.602 Unlimited exemptions.
101-38.603 Limited exemptions.
101-38.604 Special exemptions.
101-38.605 Additional exemptions.
101-38.606 Approval of tag requests for exempted vehicles in the District of Columbia.
101-38.607 Report of exempted motor vehicles.

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[1] See Temporary Regulation G-45 in the appendix to Subchapter G for temporary changes to Part 101-38.

Subpart 101-38.7—Transfer of Title to Government-Owned Motor Vehicles

Sec.
101-38.701 Methods of transfer.

Subpart 101-38.8—Reporting Motor Vehicle Accidents

101-38.800 Scope of subpart.
101-38.801 Applicability.
101-38.802 Accident reporting forms and their use.

Subpart 101-38.9—Motor Vehicle Replacement Standards

101-38.901 Applicability.
101-38.902 Passenger cars and station wagons.
101-38.903 Ambulances.
101-38.904 Buses for eleven or more passengers.
101-38.905 Multiple-drive vehicles.
101-38.906 Motor trucks.
101-38.907 Fleets.
101-38.908 Exception.

Subpart 101-38.10—Scheduled Maintenance of Motor Vehicles

101-38.1000 Scope of subpart.
101-38.1001 Applicability.
101-38.1002 Agency requirements.
101-38.1003 Guidelines.
101-38.1004 [Reserved]
101-38.1005 Assistance to agencies.

Subpart 101-38.11—Storage of Government Motor Vehicles

101-38.1100 Scope of subpart.
101-38.1101 Applicability.
101-38.1102 Storage facilities.
101-38.1103 Determining type of storage.
101-38.1104 Procurement of parking.

Subpart 101-38.12—Preparation and Control of Standard Form 149, U.S. Government National Credit Card

101-38.1200 General.
101-38.1201 Billing code.
101-38.1201-1 Billing address.
101-38.1202 Administrative control of credit cards.
101-38.1202-1 Expiration date.
101-38.1203 Centralized administrative control of credit cards.

Subpart 101-38.13—Energy Conservation in Motor Vehicle Management

101-38.1300 Scope.
101-38.1301 Applicability.
101-38.1302 General.
Sec.
101-38.1303 Identification of passenger automobiles.
101-38.1304 Mandatory provisions affecting the acquisition and use of all motor vehicles.
101-38.1305 Mandatory provisions affecting the acquisition, use, and replacement of passenger automobiles.
101-38.1305-1 Large sedans and limousines.
101-38.1305-2 Law enforcement passenger automobiles.
101-38.1305-3 Diplomatic passenger automobiles.
101-38.1306 Acquisition of fuel-efficient passenger automobiles.
101-38.1306-1 Definitions.
101-38.1306-2 Agency forcecasts of planned acquisitions.
101-38.1306-3 GSA assistance.
101-38.1307 Acquisition of fuel efficient light trucks.
101-38.1307-1 Definitions.
101-38.1307-2 Agency forecasts of planned acquisitions.
101-38.1307-3 GSA assistance.

Subparts 101-38.14—101-38.48 [Reserved]

Subpart 101-38.49—Forms and Reports

101-38.4900 Scope of subpart.
101-38.4901 Standard Form 82, Agency Report of Motor Vehicle Data.
101-38.4901-1 Standard Form 82-D, Agency Report of Sedan Data.
101-38.4902 GSA Form 1020: United States Government Certificate of Ownership of a Motor Vehicle.
101-38.4903 Examples of agency identification.
101-38.4904 Standard Form 97: Certificate of Release of a Motor Vehicle.
101-38.4905 Standard Form 97A: Agency Record Copy of Certificate of Release of a Motor Vehicle.

AUTHORITY: Sec. 205(c), 63 Stat. 390, 40 U.S.C. 486(c).

§ 101-38.000 Scope of part.

The provisions of this part prescribe policies and methods governing the economical and efficient management and control of Government-owned motor vehicles and motor vehicles rented or leased to the Government, including reporting, registration, inspection, and identification.

[35 FR 12609, Aug. 7, 1970]

Subpart 101-38.0—Definition of Terms

§ 101-38.001 Definitions.

As used in this Part 101-38, the following terms shall have the meanings stated.

[29 FR 14731, Oct. 29, 1964]

§ 101-38.001-1 Acquired for official purposes.

"Acquired for official purposes" means motor vehicles located in the United States, its territories, or possessions (a) gained and held or (b) rented or leased from private or commercial sources for a period of 60 continuous days or more by a Federal agency or the District of Columbia. This definition shall not be construed as the authority for the use of motor vehicles under paragraph (b) of this section for a period of less than 60 continuous days in any manner other than for official purposes.

[42 FR 36256, July 14, 1977]

§ 101-38.001-2 Commercial design motor vehicles.

"Commercial design motor vehicles" means motor vehicles procurable from regular production lines and available for civil agency use. Commercial design motor vehicles are further classified as "transport design" and "special design" motor vehicles.

(a) "Transport design motor vehicles" means motor vehicles commercially designed to provide transportation service, i.e., transportation of personnel or cargo. This definition includes any motor vehicle designed for transportation service even though modified locally as an expedient for meeting special needs, i.e., snowplows, etc.

(b) "Special design motor vehicles" means motor vehicles commercially designed for special purpose uses, e.g., fire engines, rotary snowplows, and other vehicles with mounted equipment which are used for purposes other than to provide transportation service for personnel, supplies, or equipment. This definition excludes any motor vehicle designed for transport modified locally as an expedient for meeting special needs, e.g., snowplows, etc.

[29 FR 14730, Oct. 29, 1974, as amended at 40 FR 42358, Sept. 12, 1975]

§ 101-38.001-3 Military design motor vehicles.

"Military design motor vehicles" means motor vehicles (excluding general purpose commercial design) designed in accordance with military specifications to meet transportation requirements for the direct support of combat or tactical operations, or for training of troops for such operations.

[29 FR 14731, Oct. 29, 1964]

§ 101-38.001-4 Identification.

"Identification" means the official legends "For Official Use Only" and "U.S. Government" and other identification showing either the full name of the department, establishment, corporation, or agency by which it is used and the service in which it is used, or a title descriptive of the service in which it is used, if such title readily identifies the department, establishment, corporation, or agency concerned.

[30 FR 7489, June 8, 1965]

§ 101-38.001-5 Metropolitan area of Washington, D.C.

"Metropolitan area of Washington, D.C." means the area which includes the District of Columbia and Alexandria City; Arlington and Fairfax Counties, Virginia; and Montgomery and Prince Georges Counties, Maryland.

[29 FR 14731, Oct. 29, 1964]

§ 101-38.001-6 Holding agency.

"Holding agency" means a Federal agency having accountability for Government-owned motor vehicles. This term applies when a Federal agency has authority to take possession of, assign, or reassign the vehicles regardless of which agency is using the vehicle.

[37 FR 18536, Sept. 13, 1972]

§ 101-38.001-7 Using agency.

"Using agency" means a Federal agency using vehicles for which it does not have accountability. This term applies when a Federal agency rents vehicles from interagency motor pools or commercial rental firms (term or trip rentals) or borrows from other Federal agencies.

[37 FR 18536, Sept. 13, 1972]

§ 101-38.001-8 Term rental.

"Term rental" means rental of a vehicle by a Federal agency by contract or other arrangement from a commercial firm for a period of 60 continuous days or more. It is synonymous with the word "leasing."

[42 FR 1477, Jan. 7, 1977]

§ 101-38.001-9 Trip rental.

"Trip rental" means rental of a vehicle by a Federal agency from a commercial firm for a period of less than 60 days.

[42 FR 1477, Jan. 7, 1977]

§ 101-38.001-10 Reportable vehicles.

"Reportable vehicles" means all automobiles, station wagons, ambulances, buses, carryalls, trucks, and truck tractors. Excluded are "military design motor vehicles" (defined in § 101-38.001-3), trailers, fire trucks, and other equipment detailed in the instructions for Standard Form 82, Agency Report of Motor Vehicle Data (see § 101-38.4901).

[40 FR 42358, Sept. 12, 1975]

§ 101-38.001-11 Large fleet.

"Large fleet" means a fleet of 2,000 or more reportable vehicles, worldwide, for which accountability is held by a department or independent establishment or a bureau or comparable organizational unit of such department or independent establishment.

[37 FR 18536, Sept. 13, 1972]

§ 101-38.001-12 Small fleet.

"Small fleet" means a fleet of less than 2,000 reportable vehicles, worldwide.

[37 FR 18536, Sept. 13, 1972]

§ 101-38.001-13 Domestic fleet.

"Domestic fleet" means all reportable motor vehicles held by an agency in the United States, its territories, or possessions.

[40 FR 42358, Sept. 12, 1975]

§ 101-38.001-14 Foreign fleet.

"Foreign fleet" means all reportable motor vehicles held by an agency for use in areas other than the United States, its territories, or possessions.

[40 FR 42358, Sept. 12, 1975]

§ 101-38.001-15 Tag.

"Tag" means the official U.S. Government motor vehicle identification plate, District of Columbia license plate, or license plate of any State, territory, or possession of the United States.

[37 FR 18536, Sept. 13, 1972]

§ 101-38.001-16 Types of vehicles.

"Types of vehicles" means those vehicle types as described and designated in Federal specifications issued by the General Services Administration and in comparable military specifications.

[42 FR 1477, Jan. 7, 1977]

§ 101-38.001-17 Passenger automobiles.

"Passenger automobiles" means those automobiles (other than automobiles capable of off-highway operation) which the Secretary of Transportation determines by rule are manufactured primarily for use in the transportation of not more than 10 individuals. For purposes of this Part 101-38, passenger automobiles shall mean those vehicles within the purview of Federal Specifications KKK-A-811 (Sedans), KKK-A-850 (Station wagons), and comparable military specifications. Upon determination by the Secretary of Transportation, additional vehicles may be included in this definition.

[42 FR 1477, Jan. 7, 1977]

§ 101-38.001-18 Acquired.

"Acquired" means purchased or leased for a period of 60 continuous days or more but does not include passenger automobiles obtained on assignment from the Interagency Motor Pool System.

[42 FR 36256, July 14, 1977]

Subpart 101-38.1—Reporting Motor Vehicle Data

SOURCE: 37 FR 18536, Sept. 13, 1972, unless otherwise noted.

§ 101-38.100 Scope of subpart.

This subpart sets forth (a) the responsibility of holding agencies for maintaining inventory, cost, and operating data and (b) policies and procedures for the reporting of Government-owned and -rented vehicle data by Federal agencies to the General Services Administration.

§ 101-38.100-1 Reporting forms.

Federal agencies shall use Standard Form 82, Agency Report of Motor Vehicle Data, and Standard Form 82-D, Agency Report of Sedan Data, to report vehicle inventory, cost, and operating data to GSA. Interagency Report Control Number 1102-GSA-AN has been assigned to these reporting requirements. (Standard Forms 82 and 82-D are illustrated in §§ 101-38.4901 and 101-38.4901-1, respectively.)

[42 FR 19328, Apr. 13, 1977]

§ 101-38.100-2 Federal Motor Vehicle Fleet Report.

From the data submitted by Federal agencies on Standard Forms 82 and 82-D, GSA will compile the "Federal Motor Vehicle Fleet Report." This report is a summary of the data submitted on these forms and is used to evaluate and analyze operations and management of the Federal fleet. GSA supplies copies of this report to Federal agencies and to other organizations as requested.

[42 FR 19328, Apr. 13, 1977]

§ 101-38.101 Records.

It is the responsibility of each holding agency to develop adequate accounting and reporting procedures to insure accurate reporting of inventory, cost, and operating data needed for the management and control of motor vehicles and to fulfill the requirements of Subpart 101-38.1.

§ 101-38.102 Preparation of forms.

The Standard Forms 82 and 82-D are each divided into two sections. Section I of each form is for reporting data relating to agency-held and -rented vehicles. Federal agencies are to report data in section I as holding agencies, using agencies, or both, as appropriate. Section II of each form is for reporting data for large fleets of agency held vehicles. Detailed instructions for preparing these forms are located on the reverse of each form.

[42 FR 19328, Apr. 13, 1977]

§ 101-38.102-1 Reporting period and submission.

Each Federal agency, as holding agency, using agency, or both, shall submit Standard Forms 82 and 82-D to GSA not later than 75 days after the end of the fiscal year.

[42 FR 19328, Apr. 13, 1977]

§ 101-38.102-2 Reporting domestic and foreign vehicles.

Agencies shall report data for domestic fleets and foreign fleets on separate Standard Forms 82 and 82-D.

[42 FR 19328, Apr. 13, 1977]

§ 101-38.102-3 Reporting Department of Defense vehicles.

The Department of Defense shall report Government-owned and -rented commercial design motor vehicles of the Department of Defense.

§ 101-38.102-4 Reporting vehicles operated by another agency.

If any vehicles are loaned to another agency during the reporting period, the holding agency shall report all data pertinent to the loaned vehicles.

§ 101-38.102-5 Reporting transferred vehicles.

If accountability for a vehicle is transferred from one holding agency to another during the reporting period, each agency shall report that data appropriate to the period of accountability.

Subpart 101-38.2—Registration and Inspection

§ 101-38.201 Registration and inspection in the District of Columbia.

§ 101-38.201-1 Registration.

(a) All motor vehicles acquired for official purposes and regularly based or housed in the District of Columbia shall be registered in the District of Columbia, Department of Highways and Traffic, in accordance with section 40-102(b)(2) of the District of Columbia Code. Each motor vehicle shall be reregistered during February of each year. Special forms for registering motor vehicles are available from the Department of Highways and Traffic.

(b) The District of Columbia Code requires that application for registration of title be accompanied by a certificate of origin, bill of sale, or other document attesting Government ownership. If such documents have been lost, destroyed, or are otherwise unavailable, GSA Form 1020, The United States Government Certificate of Ownership of a Motor Vehicle (illustrated at § 101-38.4902), certified by GSA, will be accepted by the District of Columbia in lieu of the missing documents. The holding agency may obtain GSA Form 1020 from the General Services Administration (FZM), Washington, D.C. 20406, upon furnishing adequate proof of Government ownership.

[40 FR 42358, Sept. 12, 1975]

§ 101-38.201-2 Inspection.

Each registered motor vehicle shall be inspected annually in accordance with section 40-204 of the District of Columbia Code and applicable regulations issued thereunder. Those motor vehicles that pass inspection will be provided a current Approval Inspection Sticker by the Department of Highways and Traffic.

[40 FR 42358, Sept. 12, 1975]

§ 101-38.201-3 Charges.

No charge is made for registration and inspection in the District of Columbia.

[29 FR 14732, Oct. 29, 1964]

§ 101-38.202 Registration and inspection outside the District of Columbia.

Motor vehicles acquired for official purposes and regularly housed outside the District of Columbia need not be registered in the States, territories, or possessions in which they are primarily used, except that motor vehicles exempted under Subpart 101-38.6 shall be registered and inspected in accordance with the laws of the State, territory, or possession involved.

[40 FR 42358, Sept. 12, 1975]

Subpart 101-38.3—Official U.S. Government Tags

SOURCE: 29 FR 14733, Oct. 29, 1964, unless otherwise noted.

§ 101-38.301 General requirements.

Official U.S. Government tags shall be used only on Government-owned or -leased motor vehicles.

[40 FR 42359, Sept. 12, 1975]

§ 101-38.302 Records.

Each holding agency shall maintain a current record of all official U.S. Government tags in use on motor vehicles for which that agency is accountable. Such records shall specify the motor vehicle for which the tags are assigned and shall include complete information regarding all reassignments of tags and voided tag numbers.

[40 FR 42359, Sept. 12, 1975]

§ 101-38.303 Procurement.

§ 101-38.303-1 Procurement in the District of Columbia.

(a) Official U.S. Government tags will be issued without charge to Federal agencies by the District of Columbia Department of Highways and Traffic pursuant to the provisions of section 40-102(b)(2) of the District of Columbia Code, at the time the motor vehicle is registered or reregistered as prescribed in § 101-38.201-1.

(b) Government-owned motor vehicles registered in the District of Columbia in accordance with § 101-38.201-1 and displaying official U.S. Government tags shall have the letter code designation prescribed in § 101-38.304-1 stenciled in the blank space beside the embossed numbers. The letter code designation shall be stenciled on the tag in such a manner that the size and color of the letters are the same as, or similar to, the embossed numbers.

[40 FR 42359, Sept. 12, 1975]

§ 101-38.303-2 Procurement outside the District of Columbia.

(a) Federal agencies operating motor vehicles acquired for official purposes outside the District of Columbia, except those exempted under Subpart 101-38.6, shall procure official U.S. Government tags from the Superintendent of Industries, District of Columbia, Department of Corrections, Lorton, VA 22079.

(b) Tags will be fabricated from aluminum, treated against salt corrosion, and have a baked enamel surface. These tags have an estimated life expectancy of 5 years.

(c) When ordering tags, the following applies:

(1) Purchase orders shall include the code letters and numbers to be imprinted on the tags; the dates on which deliveries are required; the consignee and shipping instructions; the symbol number of the appropriation to be charged; and the signature of an officer authorized to obligate the cited appropriation.

(2) For obligating purposes, the ordering agency should consult the prices for vehicle identification tags listed in the Current Price List of Industrial Products and Services, issued by the Superintendent of Industries. Federal agencies may request that they be added to the mailing list to receive the price lists as issued by contacting the Superintendent of Industries, District of Columbia, Department of Corrections, Lorton, VA 22079.

(3) When requested by the ordering agency, tags will be shipped directly to field stations. If the size of the shipment requires the use of a Government bill of lading, the bill of lading shall accompany the purchase order. If the size of the shipment permits mailing, the Department of Corrections will supply the necessary postage and will add the cost to the invoice.

(4) Upon receipt of an appropriate billing document, each agency shall make payment direct to the Superintendent of Industries, District of Columbia, Department of Corrections, Lorton, VA 22079.

[29 FR 14730, Oct. 29, 1964, as amended at 40 FR 42359, Sept. 12, 1975]

§ 101-38.304 Numbering and coding.

§ 101-38.304-1 Code designations.

Official U.S. Government tags, except tags issued by the District of Columbia Department of Highways and Traffic pursuant to § 101-38.303-1, shall be numbered serially for each agency, beginning with 101, and shall be preceded by a letter code designating the agency having accountability for the motor vehicles as follows:

Action	ACT.
Agriculture, Department of	A.
Air Force, Department of the	AF.
Army, Department of the	W.
Civil Aeronautics Board	CA.
Civil Service Commission	CS.
Commerce, Department of	C.
Community Services Administration	CSA.
Consumer Product Safety Commission	CPSC.
Corps of Engineer, Civil Works	CE.
Defense Contract Audit Agency	DA.
Defense, Department of	D.
Defense Logistics Agency	DLA.
District of Columbia Redevelopment Land Agency	LA.
Energy, Department of	E.
Environmental Protection Agency	EPA.
Executive Office of the President	EO.
Council of Economic Advisors, National Security Council, Office of Management and Budget.	
Executive Protective Service	EPS.
Export-Import Bank of the United States	EB.
Federal Aviation Administration	FA.
Federal Communications Commission	FC.
Federal Deposit Insurance Corporation	FD.
Federal Mediation and Conciliation Service	FM.
Federal Reserve System	FR.
Federal Trade Commission	FT.
General Accounting Office	GA.
General Services Adminstration	GS.
Government Printing Office	GP.
Health, Education, Welfare, Department of	HW.
Housing and Urban Development, Department of	H.
Interagency Motor Pool Systems	G.
Interior, Department of the	I.
Interstate Commerce Commission	IC.
Judicial Branch of the Government	JB.
Justice, Department of	J.
Labor, Department of	L.
Legislative Branch	LB.
National Aeronautics and Space Administration	NA.
National Capital Housing Authority	NH.
National Capital Planning Commission	NP.
National Guard Bureau	NG.

National Labor Relations Board	NL.
National Science Foundation	NS.
Navy, Department of the	N.
Nuclear Regulatory Commission	NRC.
Panama Canal Company	PC.
Railroad retirement Board	RR.
Renegotiation Board	RB
Securities and Exchange Commission	SE.
Selective Service System	SS
Small Business Adminstration	SB.
Smithsonian Institution	SI.
National Gallery of Art.	
Soldiers' and Airmen's Home, U.S.	SH.
State, Department of	S.
Tennessee Valley Authority	TV.
Transportation, Department of	DOT.
Treasury, Department of the	T.
United States Information Agency	IA.
United States Postal Service	P.
Veterans Administration	VA.

[43 FR 24062, June 2, 1978]

§ 101-38.304-2 Request for additional code designations.

Additional code designations may be prescribed by GSA upon request of a Federal agency.

§ 101-38.305 Display, assignment, and removal of U.S. Government tags.

§ 101-38.305-1 Display.

Each motor vehicle acquired for official purposes (except vehicles exempted by Subpart 101-38.6) shall display official U.S. Government tags mounted on the front and rear of the vehicle except two-wheeled vehicles which require rear tags only. Motor vehicles of the Department of Defense shall be governed by Subpart 101-38.5.

[36 FR 8869, May 14, 1971]

§ 101-38.305-2 Assignment.

Official U.S. Government tags shall be used on the motor vehicles to which originally assigned until such vehicles are removed from the Government service or transferred to another agency, or until the tags have bcome mutilated or defaced so as to necessitate their replacement.

§ 101-38.305-3 Removal.

Whenever a motor vehicle is removed from Government service or transferred to another agency, the official U.S. Government tags shall be removed. Subject to the provision of § 101-38.305-4, such tags may be transferred to a new motor vehicle acquired for official purposes, returned to stock for subsequent use, or voided against further use, as determined by the head of the holding agency concerned, or his designee. Tags which are voided shall be so defaced or destroyed as to prevent their re-use.

§ 101-38.305-4 U.S. Government tags issued by District of Columbia.

Official U.S. Government tags issued by the District of Columbia may be transferred, after approval by the Director of Highways and Traffic of the District of Columbia, only to another Government-owned or -leased motor vehicle of the same agency operating that vehicle in the District of Columbia. Damaged or mutilated tags finally removed from vehicles operating in the District of Columbia shall be delivered to the District of Columbia Department of Highways and Traffic for cancellation. Whenever motor vehicles regularly based or housed in the District of Columbia are transferred to operation in field areas, transferred to another agency, or removed from Government service, the official U.S. Government tags issued by the District of Columbia shall be removed and delivered to the District of Columbia Department of Highways and Traffic for cancellation.

[40 FR 42359, Sept. 12, 1975]

Subpart 101-38.4—Official Legend and Agency Identification

SOURCE: 30 FR 7489, June 8, 1965, unless otherwise noted.

§ 101-38.401 General requirements.

(a) Each motor vehicle acquired for official purposes (except vehicles exempted by Subpart 101-38.6) shall display the legends "For Official Use Only" (in letters not less than ½ inch and not over ¾ inch high) and "U.S. Government" (in letters not less than ¾ inch and not over 1 inch high) and agency identification as provided in § 101-38.403. Motor vehicles of the Department of Defense shall be governed by Subpart 101-38.5.

(b) Where motor vehicles at present display agency identification substantially in accordance with this subpart, such identification need not be replaced until necessary because of damage or wear or until replacement can be accomplished without excessive expense.

(c) Motor vehicles rented or leased from private or commercial sources for a period of 6 months or less and used primarily for off-highway work need not display the legends "For Official Use Only" and "U.S. Government" and agency identification; however, such vehicles leased for periods longer than 3 months shall display official U.S. Government tags as prescribed in § 101-38.305.

§ 101-38.402 Ageny identification.

The full name of the department, establishment, corporation, or agency by which it is held; or a title descriptive of the service in which it is held if such a title readily identifies the department, establishment, corporation, or agency concerned shall be displayed conspicuously, as shown in § 101-38.4903, in letters of a color that is in definite contrast to the background color of the motor vehicle involved. The principal identifying word or words, or the full title of such agency identification shall be in letters not less than 1 inch high and not over 1½ inches high. Subsidiary words, or titles of subordinate units, if used, shall be in letters not less than ½ inch high and not over ¾ inch high. The identification should be applied through the use of decalcomanias (elastomeric pigmented film type). For examples of suggested possible arrangements, see § 101-38.4903.

[40 FR 42359, Sept. 12, 1975]

§ 101-38.403 Display of legend and agency identification.

Except as provided in § 101-38.401(c) and Subpart 101-38.6, all Government-owned or -leased motor vehicles shall display the legends "For Official Use Only" and "U.S. Government," and immediately below the legends the agency identification located as follows:

(a) On passenger cars, station wagons, ambulances, buses, carryalls, fire trucks, trucks, and tractors; centered on both front doors or in an appropriate position on the side if there are no doors.

(b) On trailers, vertically centered on both sides of front quarter of the vehicle.

(c) On motorcycles (sidecars only), vertically centered on the outside panel of the sidecar.

[30 FR 7489, June 8, 1965, as amended at 40 FR 42359, Sept. 12, 1975]

§ 101-38.404 Procurement of decalcomanias.

GSA will not stock decalcomanias for issue to other agencies. It is the responsibility of each agency to procure the decalcomania (elastomeric pigmented film type) for their use.

§ 101-38.405 Removal of legend and agency identification.

Whenever a motor vehicle is permanently removed from Government service, prior to the transfer of its title or its actual delivery, there shall be removed therefrom the legends "For Official Use Only" and "U.S. Government," agency identification, and any other identification as a Government motor vehicle.

Subpart 101-38.5—Motor Vehicles of the Department of Defense

§ 101-38.501 Commercial design motor vehicles.

Commercial design motor vehicles of the Department of Defense shall be identified as prescribed in Subpart 101-38.4, provided that outside the District of Columbia such vehicles need not carry official Government tags if (a) such vehicles conspicuously display, in the manner provided in Subpart 101-38.4, a title descriptive of the service to which the vehicle is assigned, a registration number assigned by the service, and the legends "For Official Use Only" and "U.S. Government," and (b) the title of the service and the registration number are displayed on the rear of the vehicle, where practicable.

[30 FR 7489, June 8, 1965]

§ 101-38.502 Military design motor vehicles.

Military design motor vehicles shall be identified as prescribed by the Secretary of Defense, except that such vehicles based in Washington, D.C. (except those exempted under Subpart 101-38.6) shall bear, in addition to such identification as may be prescribed by the Secretary of Defense, the official Government tags.

[29 FR 14734, Oct. 29, 1964]

Subpart 101-38.6—Exemptions From Use of Official U.S. Government Tags and Other Identification

SOURCE: 29 FR 14735, Oct. 29, 1964, unless otherwise noted.

§ 101-38.601 General requirements.

Motor vehicles (other than military design motor vehicles) acquired for official purposes, but which are exempted by the provisions of this subpart from the display of official U.S. Government tags and other identification, shall carry the regular license plates issued by the State, Commonwealth, or possession in which such motor vehicle is principally operated, or issued by the District of Columbia if the motor vehicle is regularly based or housed in the District of Columbia.

§ 101-38.602 Unlimited exemptions.

Unlimited exemptions from the requirement to display official U.S. Government tags and other identification are granted to the organizational activities of the agencies listed below, subject to the provisions of § 101-38.606, for motor vehicles used for purposes in which conspicuous identification on the vehicles would interfere with the performance of the functions for which the vehicles were acquired and are used.

(a) *Agriculture, Department of.* Motor vehicles that the Animal and Plant Health Inspection Service, Agricultural Marketing Service, Food and Nutrition Service, Food Safety and Quality Service, Forest Service, and Office of the Inspector General use in the conduct of investigative or law enforcement activities.

(b) *Civil Service Commission, United States.* Motor vehicles designated by the U.S. Civil Service Commission for use in the investigative program of the Bureau of Personnel Investigations.

(c) *Defense, Department of.* Motor vehicles used for intelligence, investigative, or security purposes, including such vehicles used by the U.S. Army Intelligence Agency and the Criminal Investigation Command of the Department of the Army; Office of Naval Intelligence of the Department of the Navy; and Office of Special Investigations of the Department of the Air Force.

(d) *District of Columbia.* Special motor vehicles operated by the Metropolitan Police Department; Fire Department; Weights, Measures, and Markets Division, Office of Licenses and Permits, Department of Economic Development; Department of Corrections; and Public Service Commission in connection with special investigative and undercover law enforcement activities.

(e) *Energy, Department of.* Motor vehicles that the Department of Energy designates for use in the conduct of security operations or in the enforcement of security regulations.

(f) *Health, Education, and Welfare, Department of.* Motor vehicles operated by the Food and Drug Administration in undercover law enforcement and similar investigative work; motor vehicles operated by St. Elizabeths Hospital in out-patient work where the identification of the vehicle would be prejudicial to the patient; one vehicle operated by the National Institutes of Health in transporting mentally disturbed children; and motor vehicles operated by the Office of Investigations and Office of the Inspector General that are used for law enforcement and investigative purposes.

(g) *Interior, Department of the.* Those motor vehicles operated by the U.S. Fish and Wildlife Service in the enforcement of Federal game laws; and motor vehicles assigned to the special agents of the Bureau of Land Management whose duties are to investigate crimes against public lands.

(h) *Justice, Department of.* All motor vehicles operated by the Drug Enforcement Administration, Federal Bureau of Investigation, and Border Patrol; and those vehicles operated in undercover law enforcement activities or investigative work by the Immigration and Naturalization Service, Bureau of Prisons, and U.S. Marshals Service.

(i) *Labor, Department of.* All motor vehicles used for investigation, law enforcement, and compliance by the Manpower Administration (Bureau of Apprenticeship and Training); Labor-Management Services Administration; Occupational Safety and Health Administration; and Employment Standards Administration.

(j) *National Security Council.* All motor vehicles operated by the Central Intelligence Agency.

(k) *Nuclear Regulatory Commission.* Motor vehicles that the Nuclear Regulatory Commission designates for use in the conduct of security operations or in the enforcement of security regulations.

(l) *Postal Service, United States.* The motor vehicles that the Postal Inspection Service uses for investigative and law enforcement activities.

(m) *Transportation, Department of.* All motor vehicles used for intelligence, investigative, or security purposes by the Office of Investigations and Security in the Office of the Secretary; the Intelligence and Security Division and field counterparts in the U.S. Coast Guard; the Office of Investigations and Security and field counterparts in the Federal Aviation Administration; and special agents in the Alaska Railroad.

(n) *Treasury, Department of the.* All motor vehicles operated by the U.S. Secret Service; Intelligence Division and Internal Security Division of the Internal Revenue Service; Bureau of Alcohol, Tobacco, and Firearms; Office of Investigation of the U.S. Customs Service; and vehicles used for investigative purposes by the Collection Division of the Internal Revenue Service.

(o) *State, Department of.* All motor vehicles designated for the protection of both domestic and foreign dignitaries and motor vehicles used in the investigations of passport and visa fraud cases.

(p) *National Labor Relations Board.* Motor vehicles that the field offices use for investigative activities

[41 FR 22938, June 8, 1976, as amended at 43 FR 24062, June 2, 1978; 43 FR 49794, Oct. 25, 1978; 44 FR 874, Jan. 3, 1979]

§ 101-38.603 Limited exemptions.

(a) The temporary removal, subject to the provisions of § 101-38.606, of official U.S. Government tags, other identification, and the temporary substitution of license plates issued by the appropriate State, Commonwealth, or possession, is authorized for the specific organizational units of those Federal agencies listed below whenever the head of the concerned agency determines that such temporary removal and substitution is in the public interest;

(1) *Department of the Interior.* Special officers of the Bureau of Indian Affairs, and the Division of Investigations, Office of Survey and Review, Office of the Assistant Secretary for Administration.

(2) *Department of the Treasury.* The Offices of Regional Commissioners and District Directors of the Bureau of Customs.

(3) *Federal Communications Commission.* Field Operations Bureau.

(b) The authority to make this determination and to cause the substitution to be made may be delegated by the heads of such agencies to responsible officials under their jurisdiction. Motor vehicles operated by the specified organizational units upon like determination also may be exempted from displaying identification as prescribed in Subpart 101-38.4.

[29 FR 14730, Oct. 29, 1964, as amended at 31 FR 15572, Dec. 10, 1966; 36 FR 3869, May 14, 1971; 40 FR 42360, Sept. 12, 1975]

§ 101-38.604 Special exemptions.

All vehicles assigned for the personal use of the President, his Secretaries, and the heads of executive departments as enumerated in 5 U.S.C. 1 are exempt from the display of official identification. Such vehicles, other than those assigned for the personal use of the President, shall display the official U.S. Government tags.

§ 101-38.605 Additional exemptions.

Exemptions, in addition to those authorized in §§ 101-38.602 through 101-

38.604, may be authorized by the head of the agency upon written certification that conspicuous identification will interfere with the purpose for which the motor vehicle is acquired and used. In each such case, the certification must state that the motor vehicle is acquired and used for the purpose of investigative, law enforcement, or intelligence duties involving security activities and that the identification of the motor vehicle would interfere with the discharge of such duties or endanger the security of individuals or the United States Government: *Provided,* That vehicles regularly used for common administrative purposes not directly connected with the performance of law enforcement, investigative, or intelligence duties involving security activities shall not because of such use be exempted. A conformed copy of each such certification, together with notice of cancellation thereof, if any, shall be submitted promptly to the General Services Administration (FZM), Washington, D.C. 20406.

[40 FR 42360, Sept. 12, 1975]

§ 101-38.606 Approval of tag requests for exempted vehicles in the District of Columbia.

The head of each agency shall designate a liaison representative, or representatives, to approve requests for regular District of Columbia tags for motor vehicles exempted from carrying U.S. Government tags and other identification. The name and specimen signature for each representative shall be furnished annually to the District of Columbia Department of Motor Vehicles.

§ 101-38.607 Report of exempted motor vehicles.

Periodic reports of exempted motor vehicles under §§ 101-38.602 through 101-38.605 are not required; however, the head of each agency shall submit upon request a report in triplicate to the General Services Administration (FZM), Washington, D.C. 20406, showing the total number of motor vehicles exempted pursuant to Subpart 101-38.6.

[40 FR 42360, Sept. 12, 1975]

Subpart 101-38.7—Transfer of Title to Government-Owned Motor Vehicles

§ 101-38.701 Methods of transfer.

Federal agencies in disposing of a Government-owned motor vehicle shall use one of the two methods listed below for transfer of ownership:

(a) Motor vehicles based and titled in the District of Columbia shall be transferred as provided in section 4(c) of the Vehicle Title and Registration Regulations for the District of Columbia.

(b) Motor vehicles based outside the District of Columbia shall be transferred by executing Standard Forms 97 and 97A, Certificate of Release of a Motor Vehicle. The use of these forms in foreign countries is optional.

(c) All certificates and copies shall be numbered consecutively by the using agency, such numbers to be typed or overprinted on all copies of Standard Forms 97 and 97A in the space provided. Unnumbered certificates or certificates showing erasures and strikeovers will be considered invalid by State motor vehicle agencies and will not be honored.

(d) Standard Form 97, The U.S. Government Certificate of Release of Motor Vehicle, and Standard Form 97-A, Agency Record Copy of the U.S. Government Certificate of Release of a Motor Vehicle, are issued together in a unit set as Standard Form 97. Upon completion of the set, Standard Form 97 shall be furnished the purchaser or donee; one copy of Standard Form 97-A shall be furnished the holding agency; and one copy of Standard Form 97-A shall be furnished the contracting officer of the agency effecting sale or transfer of the motor vehicle. (Also see § 101-45.303-3.)

(e) Illustrations of Standard Forms 97 and 97A and instructions for preparing the forms are contained in §§ 101-38.4904 and 101-38.4905.

[29 FR 14730, Oct. 29, 1964, as amended at 43 FR 24062, June 2, 1978]

Subpart 101-38.8—Reporting Motor Vehicle Accidents

Source: 40 FR 42360, Sept. 12, 1975, unless otherwise noted.

§ 101-38.800 Scope of subpart.

This subpart provides for the availability of certain Standard forms for use in reporting any accident involving a Government-held motor vehicle.

§ 101-38.801 Applicability.

The provisions of this subpart are recommended to all executive agencies holding motor vehicles that are located within the United States, its territories, or possessions.

§ 101-38.802 Accident reporting forms and their use.

Standard forms for reporting accidents and processing claims under the Federal Tort Claims Act (28 U.S.C. 2671-2680) were developed by the Interdepartmental Tort Claims Committee, chaired by the Department of Justice, and by the Federal Safety Council, chaired by the Department of Labor (Executive Order 10194, December 19, 1950, 3 CFR). The standard forms used for reporting motor vehicle accidents are as follows:

(a) Standard Form 91, Operator's Report of Motor Vehicle Accident (illustrated at § 101-39.4903), should be completed at the time and on the scene of an accident, insofar as possible, regardless of the extent of injury or damage. Standard Form 91 should be carried at all times in motor vehicles used for official Government business.

(b) Standard Form 91-A, Investigation Report of Motor Vehicle Accident, (illustrated at § 101-39.4905) should be completed by the person responsible for investigating an accident.

(c) Standard Form 94, Statement of Witness (illustrated at § 101-39.4904) should be completed by persons who have witnessed an accident. Standard Form 94 should be carried at all times in motor vehicles used for official Government business.

Note: Standard Forms 91, 91-A, and 94 are exempt from reports control under FPMR 101-11.11.

Subpart 101-38.9—Motor Vehicle Replacement Standards

Source: 29 FR 14737, Oct. 29, 1964, unless otherwise noted.

§ 101-38.901 Applicability.

The motor vehicle replacement standards prescribed in this subpart shall be applied by any executive agency, except the Department of Defense, desiring to replace motor vehicles. The standards prescribed are minimum standards. Executive agencies shall retain motor vehicles which are in usable and workable condition even though the standard permits replacement: *Provided*, That the vehicle can be used or operated an additional period without excessive maintenance cost or substantial reduction in trade-in value. Further, with respect to the class of vehicle to be acquired and related fuel efficiency, the provisions of §§ 101-38.1304 and 101-38.1305 shall apply.

[42 FR 36256, July 14, 1977]

§ 101-38.902 Passenger cars and station wagons.

Passenger cars and station wagons may be replaced when they have been operated for six years or 60,000 miles, whichever occurs first.

§ 101-38.903 Ambulances.

Ambulances may be replaced when they have been operated for seven years or 60,000 miles, whichever occurs first.

§ 101-38.904 Buses for eleven or more passengers.

Buses for 11 or more passengers may be replaced when they have been operated for eight years. Without regard to years of use, such buses may be replaced when they have been operated the following number of miles:

	Miles
Intercity-type bus	280,000
City-type bus	150,000
School-type bus	80,000

§ 101-38.905 Multiple-drive vehicles.

Multiple-drive (4- or 6-wheel drive) truck-chassis combination personnel and property-carrying motor vehicles may be replaced when they have been operated for six years or 40,000 miles, whichever occurs first.

§ 101-38.906 Motor trucks.

Motor trucks provided with pickup or express, panel or sedan-delivery, carryall, van, open van, platform, stake, rack, dump, truck-tractor, or tank bodies may be replaced in accordance with the following table of years or mileage operation, whichever occurs first.

Maximum GVW pounds	Total years	Total miles	Payload rating
Less than 12,500	6	50,000	1 ton and less.
12,500 through 16,999	7	60,000	1½ through 2½ tons.
17,000 and over	9	80,000	3 tons and over.

§ 101-38.907 Fleets.

When an agency holds eight or more vehicles in any one of the following classes, not more than 25 percent of the vehicles in that class may be replaced in any one fiscal year; when the total number of vehicles in any one class is less than eight, not more than two vehicles in that class may be replaced in any one fiscal year: *Provided,* That all vehicles to be replaced shall meet the age or mileage replacement standards set forth in this subpart.

(a) Automobiles (sedans, coupes, etc.).

(b) All other passenger-carrying vehicles (station wagons, ambulances, buses).

(c) All trucks and truck tractors.

[29 FR 14730, Oct. 29, 1964, as amended at 42 FR 36256, July 14, 1977]

§ 101-38.908 Exception.

If a motor vehicle has been wrecked or damaged (including wear caused by abnormal operating conditions) beyond economical repair, such unit may be replaced without regard to standards in this subpart after certification to that effect by the head of the agency or his delegate.

Subpart 101-38.10—Scheduled Maintenance of Motor Vehicles

SOURCE: 42 FR 31454, June 21, 1977, unless otherwise noted.

§ 101-38.1000 Scope of subpart.

This subpart prescribes agency requirements and guidelines covering a maintenance program for Government-owned motor vehicles.

§ 101-38.1001 Applicability.

This subpart is applicable to all Government-owned motor vehicles of a holding agency located in the United States or its territories or possessions, except for motor vehicles exempted by law or regulation. Other Federal agencies are encouraged to conform to the requirements of this subpart so that maximum benefits may be realized in the operation of all Government-owned motor vehicles.

§ 101-38.1002 Agency requirements.

All holding agencies shall establish a scheduled maintenance program wherever Government-owned motor vehicles are operated.

§ 101-38.1003 Guidelines.

(a) The guiding principles for a scheduled maintenance program shall encompass a recorded, systematic procedure for the servicing and inspection of motor vehicles to: (1) Ensure their safe and economical operating condition throughout the period of use; (2) meet established emission standards; and (3) meet warranty requirements. Servicing and inspection work may be performed by Government personnel, by commercial shops, or by a combination of both.

(b) Agencies shall take positive action to ensure that all Government-owned commercially designed motor vehicles, model year 1976 and later, have inspection and service performed in accordance with the manufacturers' recommended schedules and specifications. Agencies may continue to perform inspection and service of model year 1975 and earlier Government-owned commercially designed motor vehicles in accordance with their established maintenance schedules and specifications.

(c) Proper maintenance will ensure that Government-owned vehicles will operate in the most energy efficient manner and will meet Federal and State emission standards, including safe and proper operation of the catalytic converter, during its warranted life.

§ 101–38.1004 [Reserved]

§ 101–38.1005 Assistance to agencies.

The General Services Administration will make available motor equipment management technicians, at no cost, to assist agencies in establishing or revising their scheduled maintenance programs. Requests for motor equipment management assistance shall be submitted by holding agencies to the General Services Administration (FZM), Washington, D.C. 20406.

Subpart 101–38.11—Storage of Government Motor Vehicles.

SOURCE: 31 FR 9003, June 30, 1966, unless otherwise noted.

§ 101–38.1100 Scope of subpart.

This subpart prescribes guidelines covering storage facilities for Government motor vehicles.

§ 101–38.1101 Applicability.

This subpart is applicable to all Government-owned, -rented, and -leased motor vehicles of a holding agency located in the United States, its territories, or possessions.

[40 FR 42360, Sept. 12, 1975]

§ 101–38.1102 Storage facilities.

Government-owned, -rented, and -leased motor vehicles of a holding agency shall be stored in facilities which provide protection from pilferage or damage. In the interest of economy, open storage should be used whenever practicable and feasible.

§ 101–38.1103 Determining type of storage.

The determination as to whether or not it is "practicable or feasible" to use open storage space or a particular type of storage space at a particular location must be for agency determination after considering the nature of program demands or special requirements at that location.

§ 101–38.1104 Procurement of parking.

Prior to the procurement of other than temporary parking accommodations in urban centers (see § 101-18.102), agencies shall determine the availability of Government-owned or -controlled parking space in accordance with the provisions of § 101-17.101-6.

[40 FR 42360, Sept. 12, 1975]

Subpart 101–38.12—Preparation and Control of Standard Form 149, U.S. Government National Credit Card

SOURCE: 46 FR 3023, Jan. 13, 1981, unless otherwise noted.

§ 101–38.1200 General.

(a) Standard Form 149, U.S. Government National Credit Card, is authorized for use by Federal agencies to obtain services and supplies at service stations dispensing items provided by contractors listed in the Defense Fuel Supply Center publication "Government Vehicle Operators Guide—Your Guide to Service Stations for Gasoline, Oil, and Lubrication" (DFSC H 4280.1). Activities requiring copies of the publication should submit requests to: Commander, Defense Fuel Supply Center, Attention: DFSC:OD, Cameron Station, Alexandria, VA 22314.

(b) Procedures for obtaining Standard Form 149, U.S. Government National Credit Card, are found in § 101-26.406-5 and the current Federal Supply Schedule 75, Part VII.

§ 101–38.1201 Billing code.

The billing code is a 10-digit number and is embossed on the first line of the Standard Form 149.

(a) The first nine digits shall be assigned by the using agency in accordance with the following instructions:

(1) The first three digits of the billing code shall always be 000 for all Federal agencies other than the General Services Administration, the Department of Agriculture, and the De-

partment of Defense. The Department of Defense shall use 002, and the Department of Agriculture and the General Services Administration shall use 003.

(2) The fourth digit may be used by civilian agencies to designate the vehicle class or for other purposes to meet the agency's requirements. If not used for any designation, the fourth digit shall be 0. Components of the Department of Defense shall use the following in the fourth position: 1, Navy; 2, Army; 3, Air Force; 4, Marine Corps; 7, Defense Logistics; and 0, all independent Department of Defense agencies.

(3) The fifth and sixth digits for all civilian agencies shall be the agency code, unless otherwise authorized by GSA. Agency codes are shown in the Department of the Treasury booklet "Federal Account Symbols and Titles." For all Department of Defense activities, the fifth through the ninth digits shall be the station accounting number for the particular activity authorized to use the credit card.

(4) For civilian agencies, the seventh, eighth, and ninth digits indicate the agency billing address code number, unless otherwise authorized by GSA. Each agency shall assign its own billing address code numbers when the seventh, eighth, and ninth digits are used for that purpose.

(b) The tenth digit is the validation number for use in automated billing operations of the petroleum contractors. This number is not assigned by the agency, but will be determined by the embossing contractor listed in the Federal Supply Schedule, FSC 75 Part VII. The validation number will be computed in accordance with American Standard X4.13-1971, section 5.3.

§ 101-38.1201-1 Billing address.

The billing address is the name of the agency and the address to which petroleum contractors should send statements or invoices covering the purchase of supplies and services by the user of Standard Form 149, U.S. Government National Credit Card. The billing address will not be embossed on the Standard Form 149, but shall be maintained on file by the contractor providing the credit cards and by the petroleum contractors listed in the Defense Fuel Supply Center publication "Government Vehicle Operators Guide—Your Guide to Service Stations for Gasoline, Oil, and Lubrication" (DFSC H 4280.1).

(a) Agency identifier. The agency identifier is a one-line entry of a maximum of 22 characters embossed on the third line of the Standard Form 149. (The second line of the card is blank). It identifies the agency or agency department which is authorized to use the Standard Form 149. No Government employee's name will be embossed on the card.

§ 101-38.1202 Administrative control of credit cards.

(a) It is essential that Federal agencies ensure that supplies and services procured with Standard Form 149, U.S. Government National Credit Card, are for the official use of the agency involved and that administrative control is maintained to prevent unauthorized use of credit cards. Administrative control shall include the following as a minimum:

(1) The license tag number of the vehicle, a sequential series number, or other identification shall be embossed on the fourth line of the credit card. These data, which shall be limited to a maximum of nine characters (exclusive of the prefix), shall be preceded by one of the following prefixes: "TAG" for the vehicle license tag number; "SER" for a card in a series sequence; or "ID" for other appropriate identification. Alpha or numeric characters, or a combination thereof, may be used but it is a mandatory requirement that the maximum of nine characters (exclusive of the prefix) not be exceeded. When a license tag number is embossed on the fourth line, the card is to be used to procure supplies and services for that vehicle only. If a series number or ID designation is embossed on the card, the credit card may be used to obtain supplies and services for any properly identified U.S. Government vehicle, boat, small aircraft, nonvehicular equipment, or motor vehicle that is

leased or rented for 60 continuous days or more and is officially identified in accordance with § 101-38.305-1; and

(2) A replacement code will be embossed on the fifth line at the extreme right side to indicate the number of times a credit card has been replaced as a result of being reported lost or stolen (e.g., R-1).

(b) Agencies shall establish procedures to provide for the following:

(1) Prompt written notification to the credit card contractor of lost or stolen cards (notification shall include the date each card was initially reported lost or stolen). This notification is mandatory to enable the contractor to purge the data file if the credit card is not replaced. If a replacement card is requested, the contractor will so annotate the files.

(2) Prompt written notification to the credit card contractor of changes or deletions to billing account numbers and/or addresses; and

(3) Notification to the contractor of any cards that have to be removed from the system. (Note: When a card reaches its expiration date, it is automatically invalid and removed from the system). The removal codes are as follows: "L" = Lost, "S" = Stolen, "B" = Broken, "D" = Debossed, "E" = Expiring (use only if a replacement is needed and the card has not passed its expiration date), and "A" = All Other Reasons (such as a vehicle removed from the fleet). The schedule provides the necessary formats and allows for replacement cards, if needed.

(4) Prompt and positive destruction of all credit cards that have been replaced for any reason, and of lost or stolen credit cards recovered after being reported and/or replaced; and

(5) Destruction of credit cards bearing an expiration date that has passed or credit cards bearing an invalid license tag number, series, or identification designation; e.g., the number of a tag that has been replaced or destroyed.

§ 101-38.1202-1 Expiration date.

At the time the Standard Form 149, U.S. Government National Credit Card, is embossed, an expiration date (month, day, year) of not more than 2 years shall be embossed on the extreme right side of the fourth line of the credit card by the contractor. An expiration date of less than 2 years may be requested by the ordering agency. If an expiration date is not furnished by the agency, the contractor will emboss an expiration date of 2 years from the date of the request.

§ 101-38.1203 Centralized administrative control of credit cards.

(a) GSA will provide centralized management and control of the Standard Form 149, U.S. Government National Credit Card program. Inquiries concerning the policy and administration of the program shall be directed to GSA (TMM), Washington, D.C. 20406.

(b) Agency requests for credit cards shall be submitted directly to the contractor and shall conform to the requirements of this regulation. Changes in billing codes and addresses shall also be furnished promptly to the contractor so that there will be proper control of the billing procedures.

(c) After the determination has been made that the billing code(s) and the billing address(es) submitted are correct and are not duplicates, the contractor will process the request and emboss and issue the cards.

Subpart 101-38.13—Energy Conservation in Motor Vehicle Management

SOURCE: 42 FR 1477, Jan. 7, 1977, unless otherwise noted.

§ 101-38.1300 Scope.

This subpart prescribes requirements and guidelines to promote energy conservation in the acquisition, operation, management, and maintenance of motor vehicles used for official purposes by the Federal Government.

§ 101-38.1301 Applicability.

This subpart is applicable to executive agencies located in the United States, its territories, or its possessions and which operate Government-owned, leased, or rented motor vehicles in the conduct of official business. This subpart does not apply to motor vehicles exempted by law or other regulations. Other Federal agencies are encouraged to comply with the requirements and guidelines of this subpart so that maximum energy conservation benefits may be realized in the operation and management of Government-operated motor vehicles.

§ 101-38.1302 General.

This subpart sets forth guidelines for the improvement of Government motor vehicle management and fuel conservation by providing vehicle assignment controls, reduction in vehicle size, promotion of vehicle pooling, and other actions to foster economical and fuel efficient utilization of Government motor vehicles.

§ 101-38.1303 Identification of passenger automobiles.

Passenger automobiles shall be identified according to the current edition of Federal Specifications KKK-A-811 and KKK-A-850 (GSA-FSS), as follows:

Sedan class (new)	Station wagon class (new)	Type (old)	Descriptive name
IA			Small.
IB	IB	IA	Subcompact.
II	II	IB	Compact.
III	III	II	Midsize.
IV	IV	III, IV, V	Large.
V		VI	Limousines.

The terms "economy," "economy sedans," and "economy vehicles" refer to classes IA, IB, and II passenger automobiles.

§ 101-38.1304 Mandatory provisions affecting the acquisition and use of all motor vehicles.

(a) Subject to exceptions listed in §§ 101-38.1305 through 101-38.1305-3, all motor vehicles acquired for use by executive agencies shall be selected to achieve maximum fuel efficiency and shall be limited to the minimum body size, engine size, and operational equipment (if any) necessary to fulfill the operational needs for which the vehicles were acquired.

(b) Subject to exceptions listed in §§ 101-38.1305 through 101-38.1305-3, all motor vehicles operated by executive agencies shall be used on a pooled basis to encourage the highest level of utilization.

(c) Executive agencies shall follow the provisions of 31 U.S.C. 638a(c)(2), which define and govern the use of motor vehicles for official purposes.

(d) All requirements for rented motor vehicles exceeding the maximum order limitation established in Federal Supply Schedule Industrial Group 751, Motor Vehicle Rental Without Driver, shall be submitted to the General Services Administration as specified in § 101-39.601(a) and shall include full justification of the need for the vehicle and certification that the class (type) of vehicle required is in conformance with provisions thereof.

(e) Executive agencies shall ensure that all agency-held motor vehicles receive tuneups in accordance with the guidelines set forth in § 101-38.1003.

§ 101-38.1305 Mandatory provisions affecting the acquisition, use, and replacement of passenger automobiles.

The acquisition of passenger automobiles by an executive agency shall be limited to class IA, IB, or II (small, subcompact, or compact) unless the agency certifies to the Administrator of General Services that a larger class vehicle is essential to the agency's mission.

§ 101-38.1305-1 Large sedans and limousines.

(a) Use of Government limousines (class V) and large (class IV) sedans shall be eliminated. Exceptions shall be made only for the President and Vice President and for security and highly essential needs. Executive agencies shall certify all exceptions to the Administrator of General Services.

(b) All classes IV and V sedans shall be replaced by class II or smaller sedans unless a class III is absolutely essential to the agency's mission and certified accordingly to the Administrator of General Services.

§ 101-38.1305-2 Law enforcement passenger automobiles.

Passenger automobiles exceeding classes IA, IB, and II in size shall be certified by the head of the law enforcement agency to the Administrator of General Services as essential for the security and safety of its law enforcement mission.

§ 101-38.1305-3 Diplomatic passenger automobiles.

Passenger automobiles exceeding classes IA, IB, and II in size shall be certified by the appropriate official in the Department of State to the Administrator of General Services as being essential for the security of diplomatic officials.

§ 101-38.1306 Acquisition of fuel-efficient passenger automobiles.

This section sets forth policy and procedures governing the acquisition of fuel-efficient passenger automobiles by executive agencies and provides for the administration of a consolidated Federal fleet plan for use in monitoring those acquisitions. The authority for this § 101-38.1306 derives from Executive Order 11912, dated April 13, 1976, and Executive Order 12003, dated July 20, 1977, which designate and empower the Administrator of General Services to perform without approval, ratification, or other action by the President the functions vested in the President by section 510 of the Motor Vehicle Information and Cost Savings Act, as amended (89 Stat. 915, 15 U.S.C. 2010).

(a) In compliance with Executive Orders 11912 and 12003, GSA administers a consolidated Federal fleet plan for passenger automobiles acquired by executive agencies. The plan is based on forecasts of total passenger automobile acquisition requirements by vehicle class submitted by executive agencies to GSA on or before December 1 of each fiscal year. This forecast will serve as substantiation that each agency's acquisition plan is in conformance with the act; i.e., the agency plan will result in the achievement of the fleet average fuel economy prescribed for the applicable fiscal year. GSA will administer the plan by maintaining a master record of the miles per gallon rating for passenger automobiles actually acquired by each agency during the fiscal year. Periodically, each agency will be furnished a listing of automobiles acquired with the cumulative fleet average fuel economy attained to compare with its forecast. This will enable an agency to adjust future vehicle acquisitions, when necessary, to comply with the act by the end of the fiscal year.

The Federal fleet plan will enable GSA to predict the total fleet average fuel economy to be achieved by all executive agencies prior to the end of the fiscal year and to provide management assistance to agencies, when necessary, to insure compliance with the act. Forecasts of planned acquisitions shall be forwarded to the General Services Administration (FZ), Washington, D.C. 20406, not later than December 1st of each fiscal year, in accordance with the requirements set forth in § 101-38.1306-2. Interagency report control number 0162-GSA-AN has been assigned to this requested forecast.

(b) All passenger automobiles acquired by executive agencies must achieve the fleet average fuel economy set forth below for the appropriate fiscal year, and, except as provided in paragraph (c) of this section, each vehicle acquired must meet or exceed the average fuel economy standard also set forth below. The applicable fleet average fuel economy objectives and average fuel economy standards by fiscal year are as follows:

Fiscal year	Miles per gallon	
	Average fuel economy standard[1]	Fleet average fuel economy[2]
1978	18.0	20.0
1979	19.0	22.0
1980	20.0	24.0
1981	22.0	26.0
1982	24.0	28.0
1983	26.0	30.0
1984	27.0	31.0
1985	27.5	31.5

[1] Established by section 502 of the Motor Vehicle Information and Cost Savings Act (89 Stat. 902, 15 U.S.C. 2002) and the Secretary of Transportation.

[2] Established by Executive Order 12003.

(c) An agency may request exemptions from the provisions of this § 101-38.1306 for individual passenger automobiles used for special purposes. These requests shall be submitted in writing to the General Services Administration (A), Washington, D.C. 20405, and shall state the reasons supporting the proposed acquisition of a passenger automobile which does not meet the fuel economy standard. The Administrator of General Services will review the request and, with the concurrence of the Secretary of Energy, determine if the request is appropriate. The requesting agency will be informed of the determination. Automobiles exempted under the provisions of this § 101-38.1306(c) shall be included in the calculation of an agency's fleet average fuel economy.

(d) The provisions of this subpart are not applicable to passenger automobiles designed to perform combat-related missions for the U.S. Armed Forces or designed to be used in law enforcement or emergency rescue work.

[43 FR 50180, Oct. 27, 1978]

§ 101-38.1306-1 Definitions.

As used in §§ 101-38.1306, 101-38.1306-1, 101-38.1306-2, and 101-38.1306-3, the following terms shall have the stated meanings:

(a) "Executive agency" means an executive department, a Government corporation, or an independent establishment.

(b) "Fleet average fuel economy" means the total number of passenger automobiles acquired during a fiscal year by executive agencies (excluding passenger automobiles designed to perform combat-related missions for the U.S. Armed Forces or designed to be used in law enforcement work or emergency rescue work) divided by a sum of terms, each term of which is a fraction created by dividing the number of passenger automobiles so acquired of a given model type by the fuel economy of that model type.

(c) "Passenger automobile designed to be used in law enforcement work" means an automobile which is specifically approved in an agency's appropriation act or certified by the head of an agency for use in law enforcement work. For automobiles so certified, the following heaviest duty components available shall be ordered for the model automobile being acquired:

(1) Chassis frame, body mounts, and chassis components (i.e., radiator, fan blades, battery, alternator, starter, transmission, coolers, etc.);

(2) Suspension (springs, shock absorbers, wheels, and stabilizer bar(s));

(3) Power disc/drum brakes and linings;

(4) Inside hood latch release (if applicable for model acquired);

(5) Transmission low gear lockout (if available for model acquired);

(6) At least the next higher cubic inch displacement (CID) engine than is standard for the automobile concerned;

(7) Rubber or vinyl floor covering, front and rear;

(8) Seat assemblies;

(9) Vinyl interior upholstery and trim;

(10) 120 mph speedometer (head calibrated to 2 percent accuracy); and

(11) Police-pursuit-type tires.

When a law enforcement agency does not need automobiles equipped with the above components because of its mission requirements, then items (1) through (6) constitute the minimum requirements for an automobile designed to be used in law enforcement work. Additionally, the agency shall certify that this automobile is being used for law enforcement work and items (7) through (11) were not ordered for reasons related to the intended use of the automobile; e.g., surveillance work.

[43 FR 50181, Oct. 27, 1978]

§ 101-38.1306-2 Agency forecasts of planned acquisitions.

(a) Executive agencies shall furnish to the General Services Administration (FZ), Washington, D.C. 20406, automobile acquisition requirements for each fiscal year based on the combined city/highway mileage ratings for passenger automobiles (for 49 States and California vehicles) developed by the Environmental Protection Agency (EPA). The forecast shall be submitted to GSA by December 1 of each fiscal year. GSA will publish information concerning the EPA mileage ratings, a sample agency forecast, and the miles per gallon ratings to be used for the forecast in a bulletin (FPMR) each year in sufficient time to enable agencies to plan the acquisitions and to prepare the forecasts. Agencies not planning any of these acquisitions (purchases or commercial leases) or those that satisfy the total motor vehicle requirements through the GSA Interagency Motor Pool System shall furnish a negative forecast.

(b) The forecast of the total agency passenger automobile acquisition requirements shall include automobiles to be procured or leased in the coterminous United States, Alaska, Hawaii, Guam, the Virgin Islands, the Commonwealth of Puerto Rico, and the Canal Zone. The forecast shall not include passenger automobiles (1) procured or leased and to be used outside the foregoing area, (2) designed to perform combat-related missions for the Armed Forces, or (3) designed to be used in law enforcement work or emergency rescue work.

(c) Requisitions for passenger automobiles sent to GSA for procurement action but for which a contract is not effected during the same fiscal year the requisitions are submitted shall be included in the acquisition forecast for the following fiscal year.

(d) When a passenger automobile lease contains an option to renew and the option is exercised, that renewal action shall be included in the forecast as a new acquisition.

(e) In order to maintain a master record of all leased passenger automobiles, agencies shall forward to the General Services Administration (FZ), Washington, D.C. 20406, copies of all agreements for the leasing of passenger automobiles for a period of 60 continuous days or more, including agreements to renew existing leases. When the lease agreement does not provide the following information, it shall be submitted as an attachment to the lease.

(1) Year.

(2) Make.

(3) Model.

(4) Transmission type (if manual, number of forward speeds).

(5) Cubic inch displacement.

(6) Fuel system (fuel injection or carburetor (number of barrels)).

(7) If leased in California.

(f) Submission of requisitions for procurement or requests for authority to lease passenger automobiles which, in the opinion of GSA, will result in noncompliance with the fleet average fuel economy by the end of the fiscal year may result in requisitions being held in abeyance pending adjustment to the agency's acquisition plan.

(g) Requisitions submitted to GSA for passenger automobiles shall be in conformance with the requirements of § 101-26.501 and this subpart 101-38.13.

[43 FR 50181, Oct. 27, 1978]

§ 101-38.1306-3 GSA assistance.

(a) GSA will furnish each agency a list showing the status of passenger automobiles acquired with the fleet average fuel economy achieved, to enable the agency to determine the extent to which it is in conformance with the forecast originally submitted to GSA. This listing will enable an agency to make any necessary adjustments to its acquisition plan to ensure that its fleet average fuel economy is achieved for the applicable fiscal year.

(b) Agencies may request GSA assistance when preparing the forecasts of passenger automobile acquisition requirements by contacting the General Services Administration (FZM), Washington, D.C. 20406.

[43 FR 50182, Oct. 27, 1978]

§ 101-38.1307 Acquisition of fuel efficient light trucks.

This section sets forth policy and procedures governing the acquisition of fuel efficient light trucks by executive agencies and provides for the administration of a consolidated Federal fleet plan for use in monitoring those acquisitions. The authority for this Subpart 101-38.1307 derives from section 1(b) of Executive Order 12003, dated July 20, 1977.

(a) In compliance with Executive Order 11912 and 12003, GSA administers a consolidated Federal fleet plan for light trucks acquired by executive agencies. The plan is based on forecasts of total light truck acquisition requirements by vehicle class, submitted by executive agencies to GSA on or before December 15 of each fiscal year. This forecast will serve as substantiation that each agency's acquisition plan is in conformance with Executive Order 12003; i.e., the agency plan will result in the achievement of the fleet average fuel economy prescribed for the applicable fiscal year. GSA will administer the plan by maintaining a master record of the miles per gallon rating for light trucks actually acquired by each agency during the fiscal year. Periodically, each agency will be furnished a listing of light trucks acquired with the cumulative fleet average fuel economy achieved to compare with its forecast. This will enable each agency to adjust future vehicle acquisitions when necessary to comply with the Executive order by the end of the fiscal year. The Federal fleet plan will enable GSA to predict the total fleet average fuel economy to be achieved by all executive agencies prior to the end of the fiscal year and to provide management assistance to agencies when necessary to ensure compliance with the Executive Order. Forecasts of planned acquisitions shall be forwarded to the Federal Fleet Management Division (TMM), General Services Administration, Washington, DC 20406, not later than December 15 of each fiscal year in accordance with the requirements set forth in § 101-38.1307-2. Interagency control number 0162 GSA-AN has been assigned to this required forecast.

(b) All light trucks acquired by executive agencies must achieve the fleet average set forth below for the appropriate fiscal year except as provided for in paragraph (c) of this section, or acquired to be used outside the conterminous United States, Alaska, Hawaii, Guam, the Virgin Islands, and the Commonwealth of Puerto Rico.

Fiscal year	Fleet average fuel economy miles per gallon (MPG)	
	4 x 2	4 x 4
1981	16.7	15.0
1982	18.0	16.0
1983	19.5	17.5
1984	20.3	18.5
1985	21.6	19.0

(c) An agency may request exemptions from the provisions of § 101-38.1307 for individual light trucks or for specific categories of light trucks used for special purposes, such as fire support. These requests shall be submitted in writing to the General Services Administration (A), Washington, DC 20405, and shall state the reasons why the acquisition of such a light truck or category of light trucks will preclude the agency from meeting the fleet average fuel economy established by Executive Order 12003 and this regulation. The Administrator of General Services will review the request and, with the concurrence of the Secretary of Energy, determine the merits of the request and inform the requesting agency of the determination. Light trucks exempted under the provisions of this paragraph shall not be included in the calculation of an agency's fleet average fuel economy.

(d) The provisions of this regulation are not applicable to light trucks designed to perform combat related missions for the U.S. Armed Forces or designed to be used in law enforcement work or emergency rescue work.

[46 FR 18696, Mar. 26, 1981]

§ 101-38.1307-1 Definitions.

As used in §§ 101-38.1307, 101-38.1307-1, 101-38.1307-2, and 101-38.1307-3, the following terms shall have the stated meanings:

(a) "Executive agency" means an executive department, a Government corporation, or an independent establishment.

(b) "Light truck" means any truck up to 8,500 pounds Gross Vehicle Weight Rating (GVWR), which is a four-wheeled vehicle propelled by fuel (gasoline or diesel oil), is manufactured primarily for use on public streets, roads, and highways, and is covered by Federal Standard Number 307 (Trucks: light commercial, two wheel drive) or Federal Standard Number 292 (Trucks: light commercial, four wheel drive).

(c) "Fleet average fuel economy" means the total number of light trucks of a certain configuration (4 by 2 or 4 by 4) acquired during a fiscal year by an executive agency, divided by a sum of terms, each of which is a function created by dividing the number of light trucks of a given model type by the fuel economy of that model type (light trucks designed for combat-related missions, law enforcement work, or emergency rescue work are exempt).

The method of calculating the fleet average fuel economy uses harmonic averaging and is specifically required by section 510 of the Motor Vehicle Information and Cost Savings Act (89 Stat. 915; 15 U.S.C. 2010) for passenger automobiles. It is being extended to apply to the calculation of the light truck fleet average fuel economy. The fleet average fuel economy is calculated as shown in the following example:

4 BY 2

Total number of light trucks (600) divided by:

(1) Six-cylinder automatic transmission van-wagons and van-panels for use in 49 States (100) divided by 17 mpg, plus

(2) Eight-cylinder automatic transmission van-wagons and van-panels for use in California (50) divided by 14 mpg, plus

(3) Six-cylinder automatic transmission pickups for use in 49 States (200) divided by 17 mpg, plus

(4) Eight-cylinder automatic transmission pickups for use in California (50) divided by 14 mpg, plus

(5) Four-cylinder automatic transmission compact pickups for use in 49 States (150) divided by 22 mpg, plus

(6) Four-cylinder, 4-speed manual transmission compact pickups for use in California (25) divided by 24 mpg, plus

(7) Six-cylinder automatic transmission sedan deliveries for use in 49 States (25) divided by 19 mgp.

$$= \frac{600}{\frac{100}{17} + \frac{50}{14} + \frac{200}{17} + \frac{50}{14} + \frac{150}{22} + \frac{25}{24} + \frac{25}{19}}$$

$$= \frac{600}{5.88 + 3.57 + 11.76 + 3.57 + 6.82 + 1.04 + 1.32}$$

$$= \frac{600}{33.96} = 17.7 \text{ (Rounded to the nearest 0.1 mpg)}$$

4 BY 4

Total number of light trucks (190) divided by:

(1) Six-cylinder automatic transmission utility trucks for use in 49 States (180) divided by 18 mpg, plus

(2) Eight-cylinder, 3-speed manual transmission utility trucks for use in California (10) divided by 15 mpg.

$$= \frac{190}{\frac{180}{18} + \frac{10}{15}}$$

$$= \frac{190}{10.0 + .67}$$

$$= \frac{190}{10.67} = 17.8 \text{ (Rounded to the nearest 0.1 mpg)}$$

(d) "Acquired" means purchased or leased for a period of 60 continuous days or more but does not include light trucks obtained on assignment from the Interagency Motor Pool System (IMPS) or rented for periods less than 60 days through the Federal Supply Schedule or other source.

(e) "Light trucks designed for use in law enforcement work" means a light truck which is specifically approved in an agency's appropriation act and certified by the head of an agency for use in law enforcement work. For light trucks so certified the following equipment is required:

(1) Emergency warning lights must be displayed.

(2) Vehicle must be identified with markings; such as "POLICE."

[46 FR 18696, Mar. 26, 1981]

§ 101-38.1307-2 Agency forecasts of planned acquisitions.

(a) Executive agencies shall furnish to the Federal Fleet Management Division (TMM), General Services Adminstration, Washington, DC 20406, their light truck acquisition requirements for each fiscal year based on the combined city/highway mileage ratings for light trucks for 49 States and California vehicles developed by the Environmental Protection Agency (EPA). The forecast shall be submitted to GSA by December 15 of each fiscal year. GSA will publish information concerning the EPA mileage ratings, a sample agency forecast, and the miles-per-gallon ratings to be used for the forecast in an FPMR bulletin each year in sufficient time to enable agencies to plan the acquisitions and to prepare the forecast. Agencies not planning any of these acquisitions (purchases or commercial leases) or those that satisfy their total motor vehicle requirements through the GSA IMPS shall furnish a negative forecast.

(b) The forecast of the total agency light truck acquisition requirements shall include light trucks to be procured or leased for use in the conterminous United States, Alaska, Hawaii, Guam, the Virgin Islands, and the Commonwealth of Puerto Rico. The forecast shall not include light trucks (1) to be procured or leased outside the foregoing area, (2) designed to perfrom combat-related missions for the Armed Forces, or (3) designed to be used in law enforcement work or emergency rescue work.

(c) Requisitions for light trucks sent to GSA for procurement action, but for which a contract is not effected during the same fiscal year the requisitions are submitted, shall be included in the agency's acquisition forecast for the following fiscal year.

(d) When a light truck lease contains an option to renew and the option is exercised, that renewal action shall count as a new acquisition and shall be included in the applicable year's forecast.

(e) In order to maintain a master record of all light truck acquisitions, agencies shall forward to the Federal Fleet Management Division (TMM), General Services Administration, Washington, DC 20406, copies of all agreements for the leasing of light trucks for a period of 60 continuous days or more, including agreements to renew existing leases. When the lease agreement does not provide the following information, it shall be submitted as an attachment to the lease:

(1) Year

(2) Make

(3) Model

(4) Transmission type (if manual, number of forward speeds)

(5) Cubic-inch displacement (CID)

(6) Fuel system (fuel injection or carburetor (number of barrels))

(7) Whether it is a 4 by 2 or 4 by 4

(8) If leased in California

(9) Gross vehicle weight rating (GVWR)

(f) Submission of requisitions for procurement, or requests for authority to lease light trucks which, in the opinion of GSA, will result in noncompliance with the fleet average fuel economy by the end of the fiscal year may result in requisitions being held in abeyance pending adjustment to the agency's acquisition plan.

[46 FR 18697, Mar. 26, 1981]

§ 101-38.1307-3 GSA assistance.

(a) GSA periodically will furnish each agency a listing showing the status of light trucks acquired with the fleet average fuel economy achieved to enable the agency to determine the extent to which it is in conformance with the forecast originally submitted to GSA. The listing will enable an agency to make adjustments to its acquisition plan, when necessary, to ensure that its fleet average fuel economy is achieved for the applicable fiscal year.

(b) Agencies may request GSA's assistance when preparing the forecasts of light truck acquisition requirements by contacting the Federal Fleet Management Division (TMM), General Services Administration, Washington, DC 20406, telephone (202) 275-1021, or Autovon 285-0694.

[46 FR 18697, Mar. 26, 1981]

Subparts 101-38.14—101-38.48—[Reserved]

Subpart 101-38.49—Forms and Reports

§ 101-38.4900 Scope of subpart.

(a) Sections 101-38.4901 through 101-38.4909 contain illustrations, forms, and reports used in connection with the regulations on motor equipment management prescribed in this Part 101-38. The forms and reports are illustrated to show the format, text, and arrangement and to provide a ready source of reference. Instructions for preparing some of the forms and reports are shown in the illustrations.

(b) Standard forms illustrated in this § 101-38.4900, unless otherwise provided in the section prescribing the forms, may be obtained by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office servicing the requisitioning activity.

[31 FR 15572, Dec. 10, 1966, as amended at 40 FR 42360, Sept. 12, 1975]

§ 101-38.4901 Standard Form 82, Agency Report of Motor Vehicle Data.

NOTE: Standard Form 82, as illustrated in § 101-38.4901, is filed as part of the original document.

[37 FR 18537, Sept. 13, 1972]

§ 101-38.4901-1 Standard Form 82-D, Agency Report of Sedan Data.

NOTE: The form illustrated in § 101-38.4901-1 is filed with the original document.

[42 FR 19328, Apr. 13, 1977]

§ 101-38.4902 GSA Form 1020: United States Government Certificate of Ownership of a Motor Vehicle.

NOTE: GSA Form 1020 is filed as part of the original document. Holding agencies may obtain GSA Form 1020 from the General Services Administration, Transportation and Communications Service, Motor Equipment Management Division—TMM, Washington, D.C. 20405, upon furnishing adequate proof of Government ownership.

[33 FR 10209, July 17, 1968]

§ 101-38.4903 Examples of agency identification.

Agency identification	Letter height (inches)	
	Min.	Max.
For official use only	½	¾
U.S. Government	¾	1
Department of the Interior	1	1½
Bureau of Reclamation	½	¾
For official use only	½	¾
U.S. Government	¾	1
Internal Revenue Service	1	1½
For official use only	½	¾
U.S. Government	¾	1
Department of Energy	1	1½
For official use only	½	¾
U.S. Government	¾	1
Federal Aviation Administration	1	1½

[43 FR 24062, June 2, 1978]

§ 101-38.4904 Standard Form 97: Certificate of Release of a Motor Vehicle.

NOTE: The form illustrated in § 101-38.4904 is filed with the original document.

[29 FR 14738, Oct. 29, 1964]

§ 101-38.4905 Standard Form 97A: Agency Record Copy of Certificate of Release of a Motor Vehicle.

NOTE: The form illustrated in § 101-38.4905 is filed with the original document.

[29 FR 14738, Oct. 29, 1964]

PART 101-39—INTERAGENCY MOTOR VEHICLE POOLS [1]

Sec.
101-39.000 Scope of part.

Subpart 101-39.0—General Provisions

101-39.001 Authority.
101-39.002 Applicability.
101-39.003 Financing.
101-39.004 Optional operations.
101-39.005 Agency compliance.

Subpart 101-39.1—Conduct of Studies

101-39.101 General.
101-39.102 Notice of intention to begin a study.
101-39.103 Agency cooperation.
101-39.103-1 Information and assistance.
101-39.103-2 Estimates in lieu of recorded information.

Subpart 101-39.2—Determinations

101-39.201 General.
101-39.202 Content of determination.
101-39.203 Justification of determination.
101-39.204 Records, facilities, personnel, and appropriations.
101-39.205 Issuance of determination.
101-39.206 Effective date of determination.
101-39.207 Review of contested determinations.
101-39.207-1 Appeals to the Office of Management and Budget.
101-39.207-2 Notification of appeal decision.
101-39.207-3 Effect of the Office of Management and Budget decision.

Subpart 101-39.3—Motor Vehicle Exemptions

101-39.301 General.
101-39.302 Unlimited exemptions.
101-39.303 Limited exemptions.

Subpart 101-39.4—Establishment, Modification, and Discontinuance of Motor Pools

101-39.401 General.
101-39.402 Notice of establishment of a motor pool system.
101-39.403 Transfers to a motor pool system.
101-39.403-1 Provision for transfer.
101-39.403-2 Documentation of transfer.
101-39.403-3 Reimbursement.
101-39.404 Discontinuance or curtailment of service.
101-39.404-1 Basis for discontinuance of a motor pool system.
101-39.404-2 Notification of discontinuance or curtailment of service.
101-39.404-3 Problems involving service or cost.
101-39.404-4 Agency requests to withdraw participation.
101-39.404-5 Transfers from discontinued or curtailed motor pool systems.

Subpart 101-39.5—Services

101-39.500 Scope of subpart.
101-39.501 Notification to agencies.
101-39.502 Services available.
101-39.503 Obtaining services and procedures for billing.
101-39.503-1 Seasonal or unusual requirements.
101-39.503-2 Obtaining dispatch motor vehicles for trip or daily assignment.
101-39.503-3 Obtaining vehicles for indefinite assignment.
101-39.503-4 Motor pool vehicles removed from defined areas.

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[1] See Temporary Regulation G-45 in the appendix to Subchapter G for temporary changes to Part 101-39.

Sec.
101-39.503-5 GSA Form 2649, Motor Pool Charge Plate.
101-39.503-6 Availability of GSA Form 2649.
101-39.503-7 Lost or stolen GSA Form 2649.
101-39.504 Reimbursement.

Subpart 101-39.6—Official Use of Government Motor Vehicles and Related Motor Pool Services

101-39.600 Scope of subpart.
101-39.601 General requirements.
101-39.602 Authorized use.
101-39.602-1 Government vehicles.
101-39.602-2 Related services.
101-39.603 Violations.
101-39.603-1 Notification of violation.
101-39.603-2 Responsibility for investigation.

Subpart 101-39.7—Care of Vehicles

101-39.701 General.
101-39.702 Storage.
101-39.703 Maintenance.
101-39.704 Damage through operator misconduct or improper operation.
101-39.705 Operator's packet and instructions.
101-39.705-1 Contents of packet.
101-39.705-2 Maintenance of packet.
101-39.706 Modification or installation of accessory equipment.

Subpart 101-39.8—Accidents and Claims

101-39.801 General.
101-39.802 Reporting of accidents.
101-39.803 Recommendations for disciplinary action.
101-39.804 Investigation.
101-39.804-1 Investigation procedure.
101-39.804-2 Report of investigation.
101-39.805 Claims in favor of the Government.
101-39.806 Claims against the Government.
101-39.806-1 Agency responsibility.
101-39.806-2 Cooperation of GSA Regional Counsel.
101-39.807 Responsibility for damages.
101-39.808 Accident records.

Subpart 101-39.9—Use and Rotation of Vehicles

101-39.901 General.
101-39.902 Usage objectives for motor pool system vehicles.
101-39.903 Rotation of motor pool system vehicles.

Subparts 101-39.10—101-39.48—[Reserved]

Subpart 101-39.49—Forms and Reports

Sec.
101-39.4900 Scope of subpart.
101-39.4901 GSA Form 2649, Motor Pool Charge Plate.
101-39.4902 Optional Form 26: Data Bearing Upon Scope of Employment of Motor Vehicle Operator.
101-39.4903 Standard Form 91: Operator's Report of Motor Vehicle Accident.
101-39.4904 Standard Form 94: Statement of Witness.
101-39.4905 Standard Form 91A: Investigation Report of Motor Vehicle Accident.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

SOURCE: 29 FR 13258, Sept. 24, 1964, unless otherwise noted.

§ 101-39.000 Scope of part.

This part prescribes policies and procedures governing the establishment and operation of interagency motor vehicle pools and systems (hereinafter referred to in this part as motor pool systems). It also provides for the curtailment or discontinuance of any motor pool system which does not show an actual saving.

Subpart 101-39.0—General Provisions

§ 101-39.001 Authority.

Public Law 766, 83d Congress, requires that the Administrator of General Services will, to the extent that he determines that so doing is advantageous to the Government in terms of economy, efficiency, or service, after consultation with, and with due regard to the program activities of the agencies concerned, (a) consolidate, take over, acquire, or arrange for the operation by any executive agency of, motor vehicles and other related equipment and supplies for the purpose of establishing motor pool systems to serve the needs of executive agencies; and (b) provide for the establishment, maintenance, and operation (including servicing and storage) of motor vehicle pool systems for transportation of property or passengers, and for furnishing such motor vehicle and related services to executive agencies. The exercise of this authority is subject to regulations issued by the President, which are set forth in Executive Order 10579, November 30, 1954.

§ 101-39.002 Applicability.

The regulations in this part apply to all agencies of the Federal Government to the extent provided in the Act.

§ 101-39.003 Financing.

(a) Public Law 766, 83d Congress, provides that the General Supply Fund, provided for in section 109 of the Act, shall be available for use by or under the direction and control of the Administrator of General Services for paying all elements of cost incident to the establishment, maintenance, and operation of motor pool systems.

(b) When an agency other than General Services Administration operates a motor pool system, the financing and accounting methods shall be developed by GSA in cooperation with the agencies concerned.

§ 101-39.004 Optional operations.

Nothing in this part shall preclude the establishment or operation of motor pool systems by GSA or by other agencies which are to be operated on the basis of optional use by executive or other agencies under arrangements worked out between the agencies concerned and GSA.

§ 101-39.005 Agency compliance.

Failure to comply with the regulations in this part or with the standard operating procedures issued in connection with the operation of a motor pool system will be reported by the Administrator of General Services to the head of the agency concerned, with a request for immediate correction.

Subpart 101-39.1—Conduct of Studies

§ 101-39.101 General.

GSA will conduct studies of the operation and costs of motor vehicles and motor vehicle services in selected areas to determine the advisability of establishing motor pool systems.

§ 101-39.102 Notice of intention to begin a study.

When the Administrator of General Services, after preliminary investigations, has ascertained that the possibilities of economies to be derived from establishing a motor pool system in a specific area warrant further investigation and study, he will notify the head of each agency concerned, or his designee, at least 30 days in advance, of the intent to make a study to develop data and justification as to the advisability of establishing such a motor pool system. The notification, in writing, will include:

(a) The approximate geographical area to be served by the system; and

(b) The date on which the study will begin.

§ 101-39.103 Agency cooperation.

§ 101-39.103-1 Information and assistance.

As provided by Executive Order 10579, the head of each executive agency receiving notice that a study is to be made will designate one or more officials in the field with whom members of the GSA staff may consult and who will furnish needed information and assistance to the GSA staff, including reasonable opportunities to observe motor vehicle operations and facilities and to examine pertinent cost and other records. Such information shall cover the inventory, management, operation, maintenance, and storage of motor vehicles, and motor vehicle facilities and services in the area, including location, use, need, and cost thereof, and personnel involved.

§ 101-39.103-2 Estimates in lieu of recorded information.

In the absence of record information, agencies shall prepare estimates. GSA will assist in preparing agency estimates, if requested. If the agency fails to make such estimates, GSA will prepare them.

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Subpart 101-39.2—Determinations

§ 101-39.201 General.

(a) Based on the studies provided by Subpart 101-39.1, the Administrator of General Services, with the assistance of the affected agencies or subdivisions thereof, will develop necessary data and cost statistics for use in determining the feasibility of establishing a motor pool system in the area studied.

(b) If the Administrator determines that a motor pool system shall be established, he will prepare a formal determination to that effect.

(c) In the event the Administrator decides that the establishment of a motor pool system is not feasible, the head of each agency concerned will be so notified.

(d) In the making of determinations for the establishment of motor pool systems, the Administrator will, to the extent consistent with the provisions of section 1(b) of Executive Order 10579, observe the policies outlined in Bureau of the Budget Bulletin No. 55-4 for the utilization of commercial facilities.

§ 101-39.202 Content of determination.

Each determination to establish a motor pool system will include:

(a) A description of the proposed operation, including a statement of the types of service and of the geographic area, and the agencies or parts of agencies to be served;

(b) The name of the executive agency designated to be responsible for operating the motor pool system, and the reason for such designation; and

(c) A statement indicating the motor vehicles and related equipment and supplies to be transferred and the amount of reimbursement, if any, to be made therefor.

§ 101-39.203 Justification of determination.

Each determination will be accompanied by an analytical justification which will include a comparison of estimated costs of the present and proposed methods of operation, an estimate of the savings to be realized through the establishment of the proposed motor pool system, a description of the alternatives considered in making the determination, a statement concerning the availability of privately owned facilities and equipment, and the feasibility and estimated cost (immediate and long-term) of using such facilities and equipment.

§ 101-39.204 Records, facilities, personnel, and appropriations.

Whenever a determination is made to establish a motor pool system, GSA, with the assistance of the affected agencies, will prepare and present to the Director of the Office of Management and Budget a schedule of such records, facilities, personnel, and appropriations, if any, that are proposed for transfer to the motor pool system. The Director of the Office of Management and Budget will determine the records, facilities, personnel, and appropriations, if any, to be transferred.

[38 FR 22229, Aug. 17, 1973]

§ 101-39.205 Issuance of determination.

The Administrator of General Services will furnish a copy of each determination, with a copy of the schedule of proposed transfer of records, facilities, personnel, and appropriations, to the Director of the Office of Management and Budget, and to each agency affected.

[38 FR 22229, Aug. 17, 1973]

§ 101-39.206 Effective date of determination.

Unless a longer time is allowed therein, any determination made by the Administrator shall become binding on all affected executive agencies 45 days after the issuance thereof except with respect to any agency which appeals or requests an exemption from any such determination in accordance with § 101-39.207.

§ 101-39.207 Review of contested determinations.

§ 101-39.207-1 Appeals to the Office of Management and Budget.

Any executive agency may appeal or request exemption from any or all proposals affecting it which are contained in a determination. Appeals shall be submitted in writing within 45 calendar days from the date of the determination to the Director of the Office of Management and Budget, with a copy to the Administrator of General Services. Such appeals shall be accompanied by factual and objective supporting data and justification.

[38 FR 22229, Aug. 17, 1973]

§ 101-39.207-2 Notification of appeal decision.

The Director of the Office of Management and Budget will review any determination from which an executive agency has appealed and will make a final decision on such appeal. The Director of the Office of Management and Budget will make such decisions within 75 calendar days after he receives the appeal, or as soon thereafter as practicable, on the basis of information contained in the Administrator of General Services' determination, the executive agency appeal therefrom, and any supplementary data submitted by the Administrator and the contesting agency. The Director of the Office of Management and Budget will send copies of decisions to the Administrator and to the heads of other executive agencies concerned.

[38 FR 22229, Aug. 17, 1973]

§ 101-39.207-3 Effect of the Office of Management and Budget decision.

The decision of the Director of the Office of Management and Budget upon each appeal, if he holds that the Administrator of General Services' determination shall apply in whole or in part to the appealing agency, will state the extent to which the determination applies and the effective date of its application. To the extent that the decision on an appeal does not uphold the Administrator's determination, such determination will be of no force and effect.

[38 FR 22229, Aug. 17, 1973]

Subpart 101-39.3—Motor Vehicle Exemptions

§ 101-39.301 General.

Except as provided in this subpart, all Government motor vehicles acquired for official purposes which are stored, garaged, or operated within the boundaries of a motor pool system shall be consolidate into and operated under the control of such system.

§ 101-39.302 Unlimited exemptions.

Unlimited exemptions from inclusion in a motor pool system are granted to the specific organizational units or activities of the Federal agencies listed below:

(a) Any motor vehicles regularly used by an agency in the performance of investigative, law enforcement, or intelligence duties if the head of such agency determines, in writing, a copy of which shall be forwarded to the Administrator of General Services, that the exclusive control of such vehicle is essential to the effective performance of such duties: *Provided,* That vehicles regularly used for common administrative purposes not directly connected with the performance of law enforcement, investigative, or intelligence duties shall not, because of such use, be exempted from such inclusion.

(b) Motor vehicles designed or used for military field training, combat, or tactical purposes, or used principally within the confines of a regularly established military post, camp, or depot.

(c) Any motor vehicle, the conspicuous identification of which as a Government vehicle would interfere with the purpose for which it is acquired and used, when such motor vehicle has been exempted from the display of conspicuous identification by the Administrator.

(d) Unless inclusion is mutually agreed upon by the Administrator and the head of the agency concerned:

(1) Motor vehicles for the use of the heads of the executive agencies, ambassadors, ministers, chargés d'affaires, and other principal diplomatic and consular officials.

(2) Motor vehicles regularly and principally used for the transportation

of diplomats and representatives of foreign countries or by officers of the Department of State for the conduct of official business with representatives of foreign countries.

(3) Motor vehicles regularly used by the United States Postal Service for the distribution and transportation of mail.

[29 FR 13258, Sept. 24, 1964, as amended at 38 FR 22229, Aug. 17, 1973]

§ 101-39.303 Limited exemptions.

The Administrator may exempt those vehicles which, because of their design or the special purposes for which they are used, or for other reasons, cannot advantageously be incorporated in a motor pool system if the exemption thereof has been mutually agreed upon by the Administrator and the head of the executive agency concerned. Such limited exemption will normally be restricted to:

(a) Special-purpose or special-use motor equipment. Motor vehicles acquired for special purposes and which, because of special design, use, or fixed special equipment, cannot advantageously be included in a consolidated operation. Such vehicles may include fire trucks, transit mix trucks, pole trailers, dollies, cable reels, trailer coaches; trucks with mounted equipment, such as air compressors, cranes, line maintenance equipment, snow removal equipment, and bituminous carrying equipment; and other similar equipment.

(b) Motor vehicles operated outside the pool area. Motor vehicles which are operated almost entirely outside the geographical area of an established motor pool system, which are occasionally operated within the area for trips of field employes to and from headquarters located within the area, but are not used for other transportation purposes within such area.

Subpart 101-39.4—Establishment, Modification, and Discontinuance of Motor Pools

§ 101-39.401 General.

Motor pool systems established under this subpart will provide for furnishing motor vehicles or motor vehicle services for the transportation of personnel and property, and for furnishing services related thereto, to executive agencies. So far as practicable, such services will be furnished also to any Federal agency, mixed-ownership corporation, or the District of Columbia, upon its request. Such services may be furnished, as determined by the Administrator of General Services, through the use, under rental or other arrangements, of motor vehicles of private fleet operators, taxicab companies, local or interstate common carriers, or Government-owned motor vehicles, or combinations thereof.

§ 101-39.402 Notice of establishment of a motor pool system.

GSA will inform each affected agency of the time schedule for establishment of a motor pool system and of the agency's responsibility for transferring personnel, motor vehicles, maintenance, storage, and service facilities, and other involved property. Provision will be made for meetings at the local level between the agencies concerned and the agency responsible for operating the motor pool system in order to work out any problems pertaining to establishing and operating the motor pool system.

§ 101-39.403 Transfers to a motor pool system.

§ 101-39.403-1 Provision for transfer.

All Government-owned motor vehicles acquired by executive agencies for official purposes which are operated, stored, or garaged within the designated area of a motor pool system (except those specifically exempt by Subpart 101-39.3 of this part, or by the determination of the Administrator of General Services, or by the decision of the Director of the Office of Management and Budget), and other related equipment and supplies shall, when requested by the Administrator in accordance with a determination, be transferred to the control and responsiblity of the motor pool system. Facilities, personnel, records, and appropriations, as determined by the Director of the Office of Management and Budget pursuant to § 101-39.204, shall be included in the transfer.

[38 FR 22229, Aug. 17, 1973]

§ 101-39.403-2 Documentation of transfer.

All transfers of Government-owned motor vehicles to the control and responsibility of a motor pool system shall be accomplished with transfer documents prepared on property transfer forms of the transferring agency or forms furnished by GSA. Each transferring agency shall:

(a) Prepare a transfer document listing each vehicle to be transferred.

(b) Forward a signed copy to the appropriate regional Office of Administration, General Services Administration;

(c) Furnish two copies of the transfer document to the motor pool system receiving the vehicles; and

(d) Forward an additional copy of the transfer document to the motor pool system for signature, if a signed receipt is desired by the transferring agency.

[29 FR 13258, Sept. 24, 1964, as amended at 38 FR 22229, Aug. 17, 1973]

§ 101-39.403-3 Reimbursement.

Reimbursement for the motor vehicles and related equipment and supplies acquired by agencies through expenditure made from, and not theretofore reimbursed to, any revolving or trust fund authorized by law, shall be made by GSA by an amount equal to the fair market value of the vehicle, equipment, or supplies so taken over, as required by law (40 U.S.C. 491(g)).

§ 101-39.404 Discontinuance or curtailment of service.

§ 101-39.404-1 Basis for discontinuance of a motor pool system.

If, during any reasonable period, not exceeding two successive fiscal years, no actual savings are realized from the operation of any motor pool system established hereunder, the Administrator will discontinue the motor pool system concerned.

§ 101-39.404-2 Notification of discontinuance or curtailment of service.

The Administrator of General Services may discontinue or curtail a motor pool system when he determines that it is not the most economical method of rendering required motor vehicle service; but he will give at least 60 calendar days' notice of such intention to executive agencies affected and to the Director of the Office of Management and Budget before taking such action.

[38 FR 22229, Aug. 17, 1973]

§ 101-39.404-3 Problems involving service or cost.

Executive agencies affected by a motor pool system for which the Administrator is responsible (including motor pool systems operated by another executive agency designated by the Administrator) may bring problems of service and cost to the attention of the Administrator, who will assure that such problems receive proper attention.

§ 101-39.404-4 Agency requests to withdraw participation.

(a) Executive agencies receiving motor vehicle services from a motor pool system under this part may request discontinuance or curtailment of their participation in such system after at least one year of participation or in the event that the need for the services from the motor pool system ceases. Such requests shall be submitted to the Administrator with pertinent factual justification.

(b) If the Administrator does not agree with such request and is unable to make arrangements which are mutually acceptable to him and to the head of the executive agency concerned, the agency's request for discontinuance or modification and the Administrator's reasons for not agreeing with the request will be forwarded to the Director of the Office of Management and Budget, who will make a final and binding decision.

[29 FR 13258, Sept. 24, 1964, as amended at 38 FR 22229, Aug. 17, 1973]

§ 101-39.404-5 Transfers from discontinued or curtailed motor pool systems.

When a motor pool system is discontinued or curtailed, such transfers of vehicles and related equipment and supplies, personnel, records, facilities, and funds as may be appropriate will be made, subject to the approval of the Director of the Office of Management and Budget. Reimbursement for motor vehicles and related equipment and supplies acquired by GSA through expenditure made from, and not theretofore reimbursed to the General Supply Fund, or any revolving or trust fund authorized by law, shall be made by the agency receiving the motor vehicles and related equipment and supplies by an amount equal to the fair market value, as required by law (40 U.S.C. 491(g)).

[38 FR 22229, Aug. 17, 1973]

Subpart 101-39.5—Services

§ 101-39.500 Scope of subpart.

This subpart defines the motor vehicles and related services which will be provided by interagency motor pool systems to meet efficiently the authorized requirements of the participating agencies for local transportation of Government personnel and property. Such services may be furnished through the use, under rental or other arrangements, of motor vehicles or facilities of private fleet operators, taxicab companies, local or interstate common carriers, the Government, or combinations thereof.

[29 FR 13258, Sept. 24, 1964]

§ 101-39.501 Notification to agencies.

The agency responsible for the operation of the motor pool system shall advise all activities concerned of the services available, the methods and procedures to be followed in obtaining services, and shall give ample notice of any changes therein.

[29 FR 13258, Sept. 24, 1964]

§ 101-39.502 Services available.

Motor pool system services shall be used in connection with official travel only. To the extent justified by the work requirements of using agencies, motor pool system services will be available as follows:

(a) Dispatch vehicles on trip or daily assignment;

(b) Vehicles for indefinite assignment;

(c) Shuttle run or similar services;

(d) Bus or transit service; and

(e) Other related services, including servicing and storage of motor vehicles.

[43 FR 7207, Feb. 21, 1978]

§ 101-39.503 Obtaining services and procedures for billing.

[43 FR 7207, Feb. 21, 1978]

§ 101-39.503-1 Seasonal or unusual requirements.

Agencies or activities having seasonal or unusual requirements for motor vehicles or motor vehicle services shall inform the motor pool system thereof as far in advance as possible. Normally, such advice shall be given not less than 3 months in advance of the need.

[43 FR 7207, Feb. 21, 1978]

§ 101-39.503-2 Obtaining dispatch motor vehicles for trip or daily assignment.

Dispatch vehicles are available as a source of short term transportation for personnel of any Federal agency, bureau, or activity that is located within the service area of a particular interagency motor pool system or those employees in a travel status needing a vehicle at their destination. These vehicles shall be made available only to personnel who present a valid travel order authorizing travel by a Government- owned or controlled motor vehicle or a GSA Form 2649, Motor Pool Charge Plate. (See § 101-39.503-5.) When a travel order is used to obtain a dispatch vehicle, it shall contain the complete billing address and the GSA assigned bill office address code (BOAC). Agencies requiring a BOAC may obtain one by writing to the General Services Administration (FZM), Washington, D.C. 20406. Dispatch vehicles shall be returned to the motor pool system where they were obtained.

[43 FR 7207, Feb. 21, 1978]

§ 101-39.503-3 Obtaining vehicles for indefinite assignment.

An agency requiring a motor pool vehicle for indefinite assignment shall submit a written request to the motor pool system serving the area in which the vehicle is to be used. When the vehicle is required in an area not served by a motor pool system, the agency shall direct its request to the GSA regional office having jurisdiction over the area concerned. The request shall include the agency's billing address and BOAC. A justification shall accompany each request and shall include, but need not be limited to:

(a) The reason for need of the vehicle; e.g., a new or expanded program;

(b) Authority for the requirement;

(c) The number and types of vehicles required;

(d) A certification that the request for the vehicle(s) has not been denied by the Congress, the Office of Management and Budget, or departmental headquarters; and

(e) A statement that any required departmental approvals have been obtained.

[43 FR 7207, Feb. 21, 1978]

§ 101-39.503-4 Motor pool vehicles removed from defined areas.

(a) Normally, vehicles shall not be permanently removed from the defined area of the local interagency motor pool system. However, when agency programs necessitate removal of interagency motor pool vehicles from the defined area of the motor pool system that issued the vehicles for a period exceeding 90 calendar days, the agency shall notify the issuing interagency motor pool system of the following:

(1) The location at which the vehicles are currently in use;

(2) The date the vehicles were moved to the present location; and

(3) The expected date the vehicles will be returned to the original location.

(b) When motor pool vehicles have been removed from the defined area for a period exceeding 90 calendar days, the issuing interagency motor pool system shall arrange for the transfer of accountability for the vehicles to the nearest interagency motor pool system.

[43 FR 7207, Feb. 21, 1978]

§ 101-39.503-5 GSA Form 2649, Motor Pool Charge Plate.

GSA Form 2649, Motor Pool Charge Plate (illustrated at § 101-39.4901), is designed for use by all Federal agencies to identify the activity to be billed for dispatch service. This form is a plastic credit card-type plate which contains an embossed in-the-clear address and the billed office address code assigned by GSA. The charge plate will be honored at any GSA operated or controlled interagency motor pool system; *Provided,* That credentials identifying the holder as an employee of the agency requesting the dispatch vehicle are presented to the motor pool system. The agency receiving the GSA Form 2649 shall assume all liabilities for services obtained through its use.

[43 FR 7207, Feb. 21, 1978]

§ 101-39.503-6 Availability of GSA Form 2649.

Agencies may request embossed GSA Form 2649 from the Motor Equipment Services Division of the appropriate GSA regional office serving that agency. Agencies shall provide the following information to GSA when requesting supplies of GSA Form 2649:

(a) The BOAC which has been assigned by GSA:

(b) The agency fund code, if applicable; and

(c) The appropriate agency billing address.

[43 FR 7207, Feb. 21, 1978]

§ 101-39.503-7 Lost or stolen GSA Form 2649.

When a GSA Form 2649 is lost or stolen, the agency to which the charge plate was issued shall immediately notify the GSA motor pool system that furnished the charge plate. The reverse side of the form provides a request that lost charge plates be returned to the General Services Administration, Federal Supply Service, Washington, D.C. 20406.

[43 FR 7207, Feb. 21, 1978]

§ 101-39.504 Reimbursement.

(a) The using agency will be billed for interagency motor pool services provided for under this part at rates fixed by GSA. Such rates are designed to recover applicable costs and to reflect equitably the differential in the operating cost of the various types and classes of vehicles. Rates will be reviewed annually to determine that reimbursement therefrom is sufficient to recover applicable costs, and that rates for types and classes of vehicles or services are equitable.

(b) GSA Regional Administrators will issue, from time to time, GSA regional bulletins announcing the rates applicable in their respective regions.

[29 FR 13258, Sept. 24, 1964, as amended at 32 FR 13635, Sept. 29, 1967]

Subpart 101-39.6—Official Use of Government Motor Vehicles and Related Motor Pool Services

SOURCE: 31 FR 12522, Sept. 22, 1966, unless otherwise noted.

§ 101-39.600 Scope of subpart.

This subpart prescribes the requirements governing (a) the use of Government motor vehicles acquired for official purposes and operated by a motor pool system established under this Part 101-39; (b) the use of motor pool services other than furnishing Government vehicles (see § 101-39.502), hereinafter referred to in this subpart as related services; and (c) the submission to GSA of all new requirements for leased motor vehicles exceeding the maximum order limitation of Federal Supply Schedule, Industrial Group 751—Motor Vehicle Rental Without Driver.

[39 FR 37380, Oct. 21, 1974]

§ 101-39.601 General requirements.

(a) *Leasing of motor vehicles.* Pursuant to the provisions of § 101-38.1304(d), all new requirements for leased motor vehicles exceeding the maximum order limitation of Federal Supply Schedule Industrial Group 751—Motor Vehicle Rental Without Driver, shall be submitted to the General Services Administration for appropriate action as specified in this § 101-39.601. The request shall include full justification of the need for the leased vehicles and a certification that other means of transportation are not available or are not suitable. Further, the type of vehicle requested shall be limited to class IA, IB, or II passenger vehicles or equivalent (see §§ 101-26.501 and 101-38.1303) unless the agency head or his designee has certified that the larger vehicles are essential to the agency's mission. The anticipated duration of the lease also shall be included in the request.

(1) Agencies establishing new requirements for leased vehicles, nationwide, shall submit such requirements to the General Services Administration (FZ), Washington, D.C. 20406, for a determination of whether the requirements can be satisfied with vehicles from the Interagency Motor Pool System. The Office of Transportation and Public Utilities (FZ) will notify agencies and the appropriate GSA regional offices regarding decisions on vehicle allocations or, where motor pool vehicles are not available, advise agencies to proceed with leasing action.

(2) For other than new national requirements, agencies shall submit such requirements to the Regional Director, Motor Equipment Services Division, Federal Supply Service, of the supporting GSA region, for a determination of whether the requirements can be satisfied with vehicles from the Interagency Motor Pool System. If motor pool vehicles are available, the agency will be so notified by the regional office. If motor pool vehicles are not available, GSA will return the request to the agency for leasing action.

(3) Leasing of medium and heavy trucks for periods of less than 60 continuous days and all charter services are exempted from the provisions of this § 101-39.601.

(b) *Control or use of motor pool system vehicles.* Agency officials concerned with the use or control of motor vehicles furnished by a motor pool system shall ensure that all employees under their supervision who operate or use such vehicles are fully acquainted with the requirements of this subpart.

(1) To operate a motor vehicle furnished by a motor pool system, civilian employees of the Federal Government

and designated employees of authorized contractors and subcontractors shall be required to have a State, District of Columbia, or Commonwealth operator's permit for the type of vehicle to be operated, issued for the area in which the employee is principally employed or in which he lives; and, except as authorized in paragraph (b)(2) of this § 101-39.601, a Federal operator's permit (Standard Form 46, U.S. Government Motor Vehicle Operator's Identification Card) issued in accordance with requirements of the Civil Service Commission.

(2) Government employees requiring temporary use of a vehicle furnished by a motor pool while on travel status need not possess a Standard Form 46 if their orders specifically authorize the use of such a vehicle.

[39 FR 37380, Oct. 21, 1974, as amended at 42 FR 36256, July 14, 1977]

§ 101-39.602 Authorized use.

§ 101-39.602-1 Government vehicles.

(a) Officers and employees of the Government shall use Government-owned or leased vehicles for official purposes only. "Official purposes" does not include transportation of an officer or employee between his place of residence and place of employment, unless authorized under the provisions of 31 U.S.C. 638a(c)(2), or other applicable law. A copy of any such written approval shall be furnished the motor pool system. Officers and employees entrusted with motor vehicles are responsible at all times for the proper care, operation, maintenance, and protection of the vehicle. Any officer or employee who willfully uses or authorizes the use of such vehicle for other than official purposes is subject to suspension or removal by the head of his agency (31 U.S.C. 638a(c)(2)).

(b) Heads of agencies are responsible for assuring (1) that employees of contractors and subcontractors authorized to use Government vehicles from Interagency Motor Pools (see FPR 1-5.5) use such vehicles solely in the performance of the Government contracts and subcontracts thereunder; (2) that such contractors and subcontractors establish and enforce suitable penalties for their employees who willfully use or authorize the use of such vehicles for other than such purposes; and (3) that appropriate provision is made for the assumption by the contractor or subcontractor of any cost or expense incident to use not related to the performance of the contract without the right of reimbursement from the Government for such cost or expense.

[31 FR 12522, Sept. 22, 1966, as amended at 36 FR 16509, Aug. 21, 1971]

§ 101-39.602-2 Related services.

(a) Agencies and authorized contractors and subcontractors shall use related motor pool services solely for official purposes.

(b) To the extent available, agencies and authorized contractors and subcontractors may use motor pool services on a reimbursable basis to provide maintenance, repair, storage, and service station services for Government-owned or -leased equipment which is not controlled by a motor pool system, or for authorized contractor-owned or -leased equipment used in the performance of Government contracts.

§ 101-39.603 Violations.

§ 101-39.603-1 Notification of violation.

When a violation of the provisions of § 101-39.602 comes to the attention of the agency operating the motor pool system, that agency shall notify the General Services Administration (FZ), Washington, D.C. 20406, for transmission to the headquarters office of the agency concerned.

[39 FR 30117, Aug. 21, 1974]

§ 101-39.603-2 Responsibility for investigation.

The head of each agency shall be responsible for investigating reports of violations of the provisions of § 101-39.602 by such agency or its contractors or subcontractors and for appropriate disciplinary action, or where appropriate, referral to the Attorney General for prosecution under 18 U.S.C. 641.

Subpart 101-39.7—Care of Vehicles

§ 101-39.701 General.

Any official or employee issued a motor vehicle from a motor pool system shall be responsible for exercising reasonable diligence in the care of the vehicle at all times. Failure to take proper care of a vehicle may be considered as justification for refusal of further vehicle issuance to such official or employee after reasonable notice to the head of the local activity concerned.

§ 101-39.702 Storage.

(a) Interagency motor pool vehicles shall be stored in facilities which provide protection from pilferage or damage. In the interest of economy, open storage shall be used wherever practicable and feasible.

(b) Whenever interagency motor pool vehicles are stored at other than a designated storage point of an interagency motor pool, the storage cost is the responsibility of the using agency. Prior to the procurement of other than temporary parking accommodations in urban centers (see § 101-18.102), agencies shall determine the availability of Government-owned or -controlled parking space in accordance with the provisions of § 101-17.101-6.

[29 FR 13258, Sept. 24, 1964, as amended at 40 FR 49331, Oct. 22, 1975]

§ 101-39.703 Maintenance.

In order to assure uninterrupted operation of interagency motor pool vehicles, safety and preventive maintenance inspections will be performed at regularly scheduled intervals. Users of interagency motor pool vehicles shall comply with the safety and preventive maintenance instructions of the agency operating the motor pool which issued the vehicle.

§ 101-39.704 Damage through operator misconduct or improper operation.

Whenever vehicle damage results through misconduct or improper operation by an employee, the agency employing the vehicle operator shall be financially responsible. (See § 101-39.807.) Misconduct includes but is not limited to vehicle operation under the influence of alcohol or narcotics and willful abuse or misuse of a vehicle. Improper operation by the driver shall include driving the vehicle in a willfully wrong, negligent (including inattentive), or careless manner.

[38 FR 32259, Nov. 23, 1973]

§ 101-39.705 Operator's packet and instructions.

§ 101-39.705-1 Contents of packet.

The agency operating the motor pool system shall provide each vehicle with an operator's packet, containing information and instructions relative to:

(a) Driver's responsibilities;

(b) Requirement of use for official purposes only;

(c) Instructions for:

(1) Procuring routine supplies, services, and maintenance;

(2) Procuring emergency supplies, services, and repairs; and

(3) Reporting accidents.

(d) The telephone numbers of responsible motor pool system employees to be called in case of accident or emergency;

(e) Standard form 149, U.S. Government National Credit Card;

(f) List of contractors from which users of motor pool vehicles shall purchase items authorized by the U.S. Government National Credit Card. Such list will be limited to the number of contractors necessary to obtain service;

(g) List of contractors shown in Federal Supply Schedule, FSC Group 91;

(h) Name and address of each repair facility under GSA term contract;

(i) Accident reporting kit which contains:

(1) Standard Form 91, Operator's Report of Motor Vehicle Accident;

(2) Standard Form 94, Statement of Witness;

(3) Form C.A.1, Employee's Notice of Injury or Occupational Disease; and

(4) Optional Form 26, Data Bearing Upon Scope of Employment of Motor Vehicle Operator (for illustration of form, see § 101-39.4902).

(j) Lubrication and maintenance schedule.

§ 101-39.705-2 Maintenance of packet.

The operator's packet shall be kept in a durable container and retained in the vehicle. The vehicle operator or assignee shall be held responsible for the safekeeping of the packet and the U.S. Government National Credit Card.

§ 101-39.706 Modification or installation of accessory equipment.

The modification of an interagency motor pool vehicle or the installation of accessory equipment on such a vehicle can be accomplished only when approved by GSA. The request for such modification and installation shall be forwarded to the Motor Equipment Services Division of the appropriate GSA regional office for consideration.

[40 FR 49331, Oct. 22, 1975]

Subpart 101-39.8—Accidents and Claims

§ 101-39.801 General.

Officials or employees responsible for the operation of a motor pool system vehicle shall exercise every precaution to prevent accidents. In case of an accident, the employee or official concerned shall comply with the procedures established by this subpart.

§ 101-39.802 Reporting of accidents.

(a) The operator of a motor pool system vehicle is responsible for notifying the following persons immediately, either in person, or by telephone or telegram, of any accident in which the vehicle may be involved:

(1) The chief of the motor pool assigning the vehicle;

(2) The employee's official supervisor; and

(3) State, county, or municipal authorities, as required by law.

(b) In addition, the vehicle operator shall obtain and record information pertaining to the accident on Standard Form 91, Operator's Report of Motor Vehicle Accident (for illustration of form, see § 101-39.4903). Only one copy of the Standard Form 91 is required and shall be furnished the vehicle operator's supervisor. The vehicle operator shall also obtain the names, addresses, and telephone numbers of any witnesses and wherever possible have witness complete Standard Form 94, Statement of Witness (for illustration of form, see § 101-39.4904), and submit the completed Standard Forms 94 and other related information to his supervisor. Standard Forms 91 and 94 will be found in the Vehicle Packet. The vehicle operator shall make no statements as to the responsibility for the accident except to his supervisor or to a Government investigating officer.

(c) Whenever a vehicle operator is injured and cannot comply with the above requirements, the agency to which the vehicle is assigned shall report the accident to the State, county, or municipal authorities as required by law, notify the chief of the motor pool assigning the vehicle as soon as possible after the accident, and complete and process Standard Forms 91 and 94.

§ 101-39.803 Recommendations for disciplinary action.

If a vehicle operator fails to report any accident involving a motor pool system vehicle, in accordance with § 101-39.802, or if he has a record showing a high accident frequency, or showing an abnormally high dollar accident cost, advice to such effect will be provided to the head of his agency, together with a statement that such failure, or poor performance record, is considered by GSA to be sufficient justification for the agency to suspend the right of the employee to operate, or use a motor pool system vehicle.

§ 101-39.804 Investigation.

§ 101-39.804-1 Investigation procedure.

Every accident involving a motor pool system vehicle shall be investigated and a report furnished the chief of the motor pool which assigned the vehicle.

(a) Where property damage is less than $250 and no bodily injury is involved, a copy of Standard Form 91 and any other available supporting data shall be submitted.

(b) Where property damage is $250 or more or bodily injury is involved, the agency employing the vehicle operator shall investigate the accident within 48 hours after the actual time of occurrence thereof. If an agency has not established investigating procedures, GSA will investigate the accident. Also, GSA may investigate any accident involving a motor pool system vehicle, if deemed necessary. Should such investigation develop additional information, the additional data or facts will be furnished to the using agency for their information.

§ 101-39.804-2 Report of investigation.

Two copies of the complete report of the investigation, including Standard Form 91A, Investigation Report of Motor Vehicle Accident (for illustration of form, see § 101-39.4905), photographs, measurements, doctor's certificate of bodily injuries, police investigation reports, operator's statement, agency's findings and determinations, witnesses' statements, and any other pertinent data shall be furnished the chief of the motor pool assigning the vehicle.

§ 101-39.805 Claims in favor of the Government.

Whenever there is any indication that a party other than the operator of the motor pool system vehicle is at fault, the agency responsible for investigating the accident shall submit all original documents and data pertaining to the accident and its investigation to the GSA Regional Counsel of the region that issued the vehicle. The Regional Counsel will initiate the necessary action to effect recovery of the Government claim. Upon specific request of the using agency, the GSA Regional Counsel will notify that agency of the introduction of the Government claim and provide pertinent information about the claim's progress and final settlement.

[40 FR 6503, Feb. 12, 1975]

§ 101-39.806 Claims against the Government.

§ 101-39.806-1 Agency responsibility.

Whenever a motor pool system vehicle is involved in an accident, resulting in damage to the property of, or injury to the person of, a third party, and the third party asserts a claim against the Government based on the alleged negligence of the vehicle operator (acting within the scope of his duties), it shall be the responsibility of the agency employing the person who was operating the motor pool system vehicle at the time of the accident to make every effort to settle the claim administratively to the extent that such agency is empowered so to do under the provisions of 28 U.S.C. 2672. It shall be the further responsibility of such agency, in the event such administrative settlement cannot be effected, to prepare completely from an administrative standpoint the Government's defense of the claim and thereafter to transmit the complete case through appropriate agency channels to the Department of Justice.

§ 101-39.806-2 Cooperation of GSA Regional Counsel.

If a suit is filed against the using agency, such agency shall furnish GSA's Regional Counsel concerned with a copy of all papers served in the action. If requested, GSA's Regional Counsel will cooperate with and assist the using agency and the Department of Justice in defense of any action against the United States, the using agency, or the operator of the vehicle, arising out of the use of a motor pool system vehicle.

§ 101-39.807 Responsibility for damages.

(a) Except as provided in (b) of this section, GSA will be responsible for the costs incurred whenever an interagency motor pool vehicle is damaged.

(b) When an employee damages an interagency motor pool vehicle through misconduct or improper operation as defined in § 101-39.704, GSA will charge all costs to the agency employing the operator, including the fair market value of the vehicle less any salvage value, if the vehicle is damaged beyond economical repair. GSA will furnish the agency an accident report regarding the incident. Each agency shall be responsible for disciplining its employees who are guilty of damaging motor pool vehicles through misconduct or improper operation.

(1) The costs chargeable to the agency include costs for removing and repairing the vehicle or, in the case of total loss, the replacement of the vehicle, including travel and other costs attributable to the accident.

(2) If an agency has information or facts which would have a bearing on the accident, the agency may furnish the data to GSA and request that the costs charged to and collected from the agency be credited to the Agency. The final determination of agency responsibility will be made by GSA, based upon Government as well as police accident reports and any available witness statements.

[37 FR 9631, May 13, 1972, as amended at 43 FR 24062, June 2, 1978]

§ 101-39.808 Accident records.

If GSA's records of vehicle accidents indicate that a particular activity has had an unusually high accident frequency rate or a high accident cost per mile, GSA will furnish the using activity with a report thereof. Corrective action to improve the situation will be requested and GSA will cooperate in any reasonable manner possible to bring about improved performance.

Subpart 101-39.9—Use and Rotation of Vehicles

§ 101-39.901 General.

The objective of each motor pool system is to provide efficient and economical motor vehicle and related services to participating agencies. To attain this objective, usage goals and rotation policy for motor pool vehicles assigned to an agency or activity on a continuing basis are prescribed in this subpart. (See also § 101-38.1304(b).)

[42 FR 36257, July 14, 1977]

§ 101-39.902 Usage objectives for motor pool system vehicles.

To promote the program wherein motor pool system vehicles are used to the maximum extent feasible and only a minimum number of vehicles are retained in the inventory to provide necessary service, the following usage objectives are established:

(a) Passenger-carrying vehicles. The average usage objective for passenger-carrying vehicles is a minimum of 3,000 miles per quarter or 12,000 miles per year.

(b) Light trucks and general purpose vehicles. The average usage objective for light trucks and general purpose vehicles is as follows:

(1) Light trucks and general purpose vehicles, 1-ton (12,500 lbs. GVW and under)—10,000 miles per year.

(2) Trucks and general purpose vehicles, 1½-ton through 2½-ton (over 12,500 lbs. GVW to 17,000 lbs. GVW)—7,500 miles per year.

(c) Heavy trucks and truck tractors. The average usage objective for heavy trucks and truck tractors is as follows:

(1) Heavy trucks and general purpose vehicles over 3 tons (over 17,000 lbs. GVW)—7,500 miles per year.

(2) Truck tractors—10,000 miles per year.

(d) Other trucks and special purpose vehicles. No usage objective for other trucks and special purpose vehicles is established, but the head of the local office of the agency or his designee shall cooperate with interagency motor pool personnel in studying the use of this equipment and taking necessary action to insure that it is fully utilized or returned to the motor pool system.

§ 101-39.903 Rotation of motor pool system vehicles.

In order to attain the usage objectives outlined in § 101-39.902, motor pool system vehicles assigned on high mileage assignments will be rotated with those on low mileage assignments. In specific cases where the continuous use of a specific vehicle is essential but its usage does not meet objectives, the motor pool system issuing the vehicle will require the using agency to furnish a written explanation of the need for excluding the vehicle from the rotation program requirements, except in those instances where it is known that the usage requirements or installed equipment make it impractical to rotate the vehicle.

Subparts 101-39.10—101-39.48—[Reserved]

Subpart 101-39.49—Forms and Reports

§ 101-39.4900 Scope of subpart.

Sections 101-39.4901 through 101-39.4905 contain forms and reports used in connection with the regulations on interagency motor vehicle pools and systems prescribed in this Part 101-39.

§ 101-39.4901 GSA Form 2649, Motor Pool Charge Plate.

NOTE: The illustration in § 101-39.4901 is filed as part of the original document and does not appear in the FEDERAL REGISTER.

[43 FR 7207, Feb. 21, 1978]

§ 101-39.4902 Optional Form 26: Data Bearing Upon Scope of Employment of Motor Vehicle Operator.

NOTE: Form filed as part of original document.

§ 101-39.4903 Standard Form 91, Operator's Report of Motor Vehicle Accident.

NOTE: Standard Form 91, as illustrated in § 101-39.4903, is filed as part of the original document.

[37 FR 13096, July 1, 1972]

§ 101-39.4904 Standard Form 94: Statement of Witness.

NOTE: Form filed as part of original document.

§ 101-39.4905 Standard Form 91A: Investigation Report of Motor Vehicle Accident.

NOTE: Form filed as part of original document.

PART 101-40—TRANSPORTATION AND TRAFFIC MANAGEMENT [1]

Sec.

101-40.000 Scope of part.

Subpart 101-40.1—General Provisions

101-40.101 Transportation assistance.
101-40.101-1 Freight and passenger transportation management assistance.
101-40.101-2 GSA transportation and traffic management liaison.
101-40.102 Representation before regulatory bodies.
101-40.103 Selection of carriers.
101-40.103-1 Domestic transportation.
101-40.103-2 International transportation.
101-40.104 Insurance against transportation hazards.
101-40.105 Use of Government-owned transportation equipment.
101-40.106 Reports.
101-40.107 Surveys.
101-40.108 Transportation seminars and workshops.
101-40.109 Availability of transportation-related contracts and agreements.
101-40.109-1 Miscellaneous transportation-related contracts and agreements.
101-40.109-2 Office relocation contracts.
101-40.109-3 Mandatory use of transportation-related contracts and agreements.
101-40.110 Assistance to economically disadvantaged transportation businesses.
101-40.110-1 Small business enterprises.
101-40.110-2 Minority business enterprises.
101-40.111 Maintenance of tariff files.
101-40.112 Transportation factors in the location of Government facilities.
101-40.113 Employees travel and relocation allowances.

Subpart 101-40.2—Centralized Household Goods Traffic Management

101-40.200 Scope of subpart.
101-40.201 Applicability.
101-40.202 The General Services Administration, Household Goods. Tender of Service (TOS) agreement.
101-40.203 Household goods movement evaluation procedures.
101-40.203-1 Household goods rate tenders.
101-40.203-2 The actual expense method.
101-40.203-3 The commuted rate schedule.
101-40.203-4 Cost comparisons.
101-40.204 Carrier selection and distribution of shipments.
101-40.205 Quality control.
101-40.206 Household goods carriers' liability.
101-40.207 Household goods loss and damage claims.
101-40.208 Disqualification or suspension of household goods carriers.

Subpart 101-40.3—Rates, Routes, and Services

101-40.300 Scope of subpart.
101-40.301 GSA rate and routing services.
101-40.302 Standard routing principle.
101-40.303 Application of the standard routing principle.

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[1] See Temporary Regulation G-45 in the appendix to Subchapter G for temporary changes to Part 101-40.

Sec.
101-40.303-1 Service requirements.
101-40.303-2 Cost considerations.
101-40.303-3 Most fuel efficient carrier/mode.
101-40.303-4 Equitable distribution of traffic among carriers.
101-40.304 Description of property for shipment.
101-40.305 Transportation negotiations.
101-40.305-1 Negotiations by GSA.
101-40.305-2 Cost analysis required on substantial movements.
101-40.305-3 Negotiations by other executive agencies.
101-40.306 Rate tenders to the Government.
101-40.306-1 Recommended rate tender format.
101-40.306-2 Required shipping documents and annotations.
101-40.306-3 Distribution.
101-40.306-4 Bill of lading endorsements.

Subpart 101-40.4—Temporary Nonuse, Disqualification, and Suspension of Carriers

101-40.400 Scope of subpart.
101-40.401 General.
101-40.402 Temporary nonuse of carriers.
101-40.402-1 Agency responsibility.
101-40.403 Administrative disqualification of a carrier.
101-40.403-1 Causes and conditions for disqualification.
101-40.403-2 Disqualification procedures.
101-40.404 Suspension of carrier.
101-40.404-1 Causes and conditions for suspension.
101-40.404-2 Period of suspension.
101-40.404-3 Restrictions during period of suspension.
101-40.404-4 Notice of suspension.
101-40.404-5 Review of suspension.

Subparts 101-40.5—101-40.6—[Reserved]

Subpart 101-40.7—Reporting and Adjusting Discrepancies in Government Shipments

101-40.700 Scope of subpart.
101-40.701 Receipt of shipment from carrier.
101-40.702 Documenting and reporting discrepancies.
101-40.702-1 Exception on carrier's delivery receipt.
101-40.702-2 Discrepancies in Government bill of lading shipments.
101-40.702-3 Preparation of a discrepancy report.
101-40.703 Notification of carrier.
101-40.703-1 [Reserved]
101-40.703-2 Notice of visible loss, damage, or shortage.
Sec.
101.40.703-3 Notice of concealed loss, damage, or shortage.
101-40.704 Disposition of damaged property.
101-40.704-1 Transportation for account of the Government.
101-40.704-2 Transportation for account of the supplier.
101-40.705 Disposition of overages and astray or misconsigned shipments.
101-40.706 [Reserved]
101-40.707 Determining liability for discrepancies.
101-40.707-1 Transportation for account of the supplier.
101-40.707-2 Transportation for account of the Government.
101-40.708 [Reserved]
101-40.709 Time limitations.
101-40.710 Processing claims against carriers.
101-40.711 Collection of claims.
101-40.711-1 Claims against domestic carriers.
101-40.711-2 Claims against ocean and international air carriers.
101-40.712 Referral of loss and damage claims to the General Accounting Office or to the Department of Justice.
101-40.713 Clearing carriers of liability.

Subparts 101-40.8—101-40.48—[Reserved]

Subpart 101-40.49—Forms, Formats, and Agreements

101-40.4900 Scope of subpart.
101-40.4901 GSA forms.
101-40.4902 Standard forms.
101-40.4903 Formats.
101-40.4904—101.40-4905 [Reserved]
101-40.4906 Illustrations.
101-40.4906-1 GSA Form 420, Freight Rate and Route Request/Response.
101-40.4906-2 Optional Form 280, Uniform Tender of Rates and/or Charges for Transportation Services.
101-40.4906-3 Standard Form 361, Discrepancy in Shipment Report.
101-40.4906-4 Guidelines for preparation of Standard Form 361, Discrepancy in Shipment Report (Short Title "DISREP") (Rev. 11-79).
101-40.4906-5 Standard Form 362, U.S. Government Freight Loss/Damage Claim.
101-40.4906-6 Standard Form 363, Discrepancy in Shipment Confirmation.
101-40.4906-7 Guidelines for preparation of Standard Form 363, Discrepancy in Shipment Confirmation.
101-40.4906-8 GSA Form 2485, Cost Comparison for Shipping Household Goods (commuted rate system versus actual expense method).

Sec.
101-40.4906-9 GSA Form 3080, Household Goods Shipment Report.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 101-40.000 Scope of part.

This part prescribes regulations that apply to the freight and passenger transportation and traffic management activities of executive agencies except the Department of Defense. It also covers arrangements for transportation and related services by bill of lading type commitments. These regulations are designed to ensure that all transportation and traffic management activities will be carried out on the basis most advantageous to the Government in terms of economy, efficiency, and service.

[45 FR 85752, Dec. 30, 1980]

Subpart 101-40.1—General Provisions

SOURCE: 45 FR 85752, Dec. 30, 1980, unless otherwise noted.

§ 101-40.101 Transportation assistance.

§ 101-40.101-1 Freight and passenger transportation management assistance.

(a) Executive agencies of the United States shall request assistance from the Department of State on shipments of household goods moving to, from and between foreign countries. The administrative support provided by the Department of State will include carrier cost comparison, carrier selections and quality control assistance.

(b) Executive agencies of the United States without transportation officers or those in need of assistance concerning freight (except shipments of household goods moving to, from and between foreign countries) and passenger transportation management matters shall request assistance from the Transportation and Public Utilities Service (TPUS), General Services Administration, Regional offices having jurisdiction over shipments originating in the following areas:

Region 1, General Services Administration (1TT), J. W. McCormack, P.O. and Court House (Room 820), Boston, MA 02019, FTS 223-2735; COML 617-223-2735; Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.

Region 2, General Services Administration (2TT), 26 Federal Plaza, New York, NY 10007, FTS 264-1286, COML 212-264-1286; New Jersey, New York, Puerto Rico, Virgin Islands.

Region 3, General Services Administration (3TT), 9th & Market Streets, Philadelphia, PA 19107, FTS 597-1247, COML 215-597-1247, Delaware, Maryland (except Prince Georges and Montgomery counties), Pennsylvania, Virginia (except Prince William, Loudoun, Fairfax, and Arlington counties).

Region 4, General Services Administration (4TT), 75 Spring Street, SW., Atlanta, GA 30303, FTS 242-5121, COML 404-221-5121; Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.

Region 5, General Services Administration (5TT), 230 S. Dearborn Street, Chicago, IL 60604, FTS 353-0818, COML 312-353-0818; Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.

Region 6, General Services Administration (6TT), 1500 E. Bannister Road, Kansas City, MO 64131, FTS 258-3841, COML 816-258-3841; Iowa, Kansas, Missouri, Nebraska.

Region 7, General Services Administration (7TT), 819 Taylor Street, Fort Worth, TX 76102, FTS 334-2733, COML 817-334-2733; Arkansas, Louisiana, New Mexico, Oklahoma, Texas.

Region 8, General Services Administration (8TT), Building 41, Denver Federal Center, Denver, CO 80225, FTS 234-2626, COML 303-234-2626; Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.

Region 9, General Services Administration (9TT), 525 Market Street (MS 42), San Francisco, CA 94105, FTS 556-3271, COML 415-556-3271; Arizona, California, Hawaii, Nevada.

Region 10, General Services Administration (10TT), GSA Center, Auburn, WA 98002, FTS 396-5411, COML 206-833-6500; Alaska, Idaho, Oregon, Washington.

National Capital Region, General Services Administration (WTT), 7th and D Streets SW., Washington, DC 20407, FTS 472-2003, COML 202-472-2003; Washington, DC, Maryland, (Prince Georges and Montgomery counties), Virginia (Prince William, Loudoun, Fairfax, and Arlington counties).

§ 101-40.101-2 GSA transportation and traffic management liaison.

GSA will maintain a continuing transportation and traffic management liaison program with the executive agencies to assist in the establishment, improvement, and maintenance of effective freight and passenger transportation and traffic management policies, practices, and procedures to meet executive agency program requirements.

§ 101-40.102 Representation before regulatory bodies.

GSA, in behalf of executive agencies, will, as it considers appropriate, institute formal or informal action before Federal or State regulatory bodies with respect to carriers' tariffs, rates, and operating authority matters. (See also § 101-40.305-1.) Agencies shall submit their requests and recommendations for these actions to the appropriate GSA office specified in § 101-40.101-1.

§ 101-40.103 Selection of carriers.

§ 101-40.103-1 Domestic transportation.

Preferential treatment, normally, shall not be accorded to any commercial mode of transportation (motor, rail, air, or water) or to any particular commercial carrier when arranging for domestic transportation services. However, where for valid reasons, a particular mode of transportation or a particular carrier within that mode must be used to meet specific program requirements and/or limitations, only that mode or carrier shall be considered. Examples of valid reasons for considering only a particular mode or carrier are (a) where only a certain mode of transportation or individual carrier is able to provide the needed service or is able to meet the required delivery date; and (b) where the consignee's installation and related facilities preclude or are not conducive to service by all modes of transportation. (See also § 101.40.303-1.)

§ 101-40.103-2 International transportation.

(See § 1-1.323 of this title and 4 CFR 52.2 for a certificate required for nonuse of U.S.-flag vessels or U.S.-flag certificated air carriers.)

(a) *U.S.-flag ocean carriers.* Arrangements for international ocean transportation services shall be made in accordance with the provisions of section 901(b) of the Merchant Marine Act of 1936, as amended (46 U.S.C. 1241 (b)), concerning the use of privately owned U.S.-flag vessels. (See also § 5A-19.108 of this title for implementing policies and procedures followed by the General Services Administration.)

(b) *U.S.-flag certificated air carriers.* Arrangements for international air transportation services shall be made in accordance with the provisions of section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, dated January 3, 1975 (49 U.S.C. 1517), which requires the use of U.S.-flag certificated air carriers for international travel of persons or property to the extent that service by these carriers is available.

§ 101-40.104 Insurance against transportation hazards.

The policy of the Government with respect to insurance of its property while in the possession of commercial carriers is set forth in § 1-19.107 of this title.

§ 101-40.105 Use of Government-owned transportation equipment.

Generally, the preferred method of transporting property for the Government is through use of the facilities and services of commercial carriers. However, under certain circumstances, Government vehicles may be used when they are available. They may be used for such purposes as local transfer of property, pickup or delivery services which are not performed by the commercial carriers in connection with the line-haul transportation, transportation of property to meet emergencies, and accomplishment of program objectives which cannot be attained through use of commercial carriers.

§ 101-40.106 Reports.

Each executive agency shall submit reports concerning its transportation procedures, practices, and operations to the Transportation and Public Utilities Service, General Services Administration (TT), Washington, DC 20406, whenever so requested or as prescribed in the individual sections of this subpart or as provided in each specific request.

§ 101-40.107 Surveys.

As necessary and after adequate advance notice to the agencies affected, or upon request of agencies, GSA will make onsite surveys of transportation activities and will make recommendations, when necessary, for changes in agencies' policies, standards, practices, and procedures to improve transportation concepts and operations at all levels.

§ 101-40.108 Transportation seminars and workshops.

GSA will, from time to time, conduct transportation seminars and workshops for the benefit of executive agency personnel assigned functions relating to the movement of persons or materials. The objective of this training is to broaden traffic management knowledge and experience within the agency and to economy of operations. Agencies desiring assistance should direct their request to the Assistant Commissioner, Office of Transportation and Travel Management (TT), Transportation and Public Utilities Service, General Services Administration, Washington, DC 20406.

§ 101-40.109 Availability of transportation-related contracts and agreements.

§ 101-40.109-1 Miscellaneous transportation-related contracts and agreements.

(a) The Transportation and Public Utilities Service, General Services Administration, will, as considered necessary, enter into agreements or contracts for transportation and related services, including but not limited to stevedoring, passenger charters, storage, drayage, packing, marking, ocean freight forwarding, accessorial services, demurrage, and weighing. (See § 101-41.304-2 for the use of commercial forms and procedures instead of Government bills of lading.) These contracts and agreements will be made for and in behalf of all executive agencies.

(b) The availability of these contracts and agreements will be announced through GSA bulletins which will outline the specific contractual services and the terms of the agreements. After distribution of these bulletins, GSA will furnish copies of the contracts and agreements to agencies upon request.

§ 101-40.109-2 Office relocation contracts.

(a) In accordance with the provisions of Part 101-17, Assignment and Utilization of Space, prior approval is required from the Public Buildings Service, GSA, for agencies desiring to relocate office space which has been assigned by GSA.

(b) The Transportation and Public Utilities Service, GSA, offices specified in § 101-40.101-1 will enter into term contracts for office relocations, estimated to cost $5,000 or less, in cities where it is determined that these contracts are warranted. On single office moves exceeding $5,000, GSA will arrange to contract for the required moving services under competitive bidding procedures. The availability of term contracts for office relocations will be announced through GSA bulletins as indicated in § 101-40.109(b).

(c) In cities where term contracts are not available and where an executive agency anticipates an office relocation estimated to cost $1,500 or more, GSA will enter into, in behalf of the agency, a specific relocation contract or other appropriate relocation arrangement. As soon as possible before the move, preferably 90 calendar days, the appropriate GSA office specified in § 101-40.101-1 shall be contacted and furnished with pertinent information concerning the proposed relocation, such as the origin, destination, moving date, property to be moved, and the agency relocation coordinator.

NOTE: Arrangements for office relocations expected to cost less than $1,500 may be handled by the agency requiring the services.

(d) Whether an office relocation is made under a GSA term moving contract or under a specific contract entered into by GSA in behalf of an individual agency, the agency being relocated shall make operational arrangements directly with the moving contractor. These arrangements shall include: (1) Issuing the purchase order or placing the work order; (2) arranging for direct billing; (3) supervising the actual move; (4) processing loss and damage claims, if any; (5) providing certification on the contractor's invoices; and (6) processing the invoice for direct payment to the contractor. The GSA contracting office shall be notified upon completion of the relocation and is prepared to provide technical assistance as necessary.

§ 101-40.109-3 Mandatory use of transportation-related contracts and agreements.

(a) When a contract or agreement for transportation-related services, including office relocations, is awarded in response to an agency's specific request, the use of the contract or agreement is mandatory for that requesting agency.

(b) When term contracts or agreements for transportation-related services, including office relocations, are entered into and awarded by GSA for use "as required," the term contract or agreement is mandatory upon all executive agencies; however, exceptions to the mandatory use of term contracts or agreements may be granted by the appropriate GSA office cited in § 101-40.101-1.

§ 101-40.110 Assistance to economically disadvantaged transportation businesses.

§ 101-40.110-1 Small business enterprises.

Consistent with the policies of the Government with respect to small business as set forth in Subpart 1-1.7 of this title, executive agencies shall place with small business concerns a fair proportion of the total purchases and contracts for intrastate and interstate transportation and related services, such as packing and crating, loading and unloading, and local drayage.

§ 101-40.110-2 Minority business enterprises.

Consistent with the policies of the Government stated in Subpart 1-1.13 of this title, minority business enterprises shall have the maximum practicable opportunity to participate in the performance of Government purchases and contracts. Agencies shall encourage transportation-related minority enterprises regardless of the mode of transportation to identify themselves and provide services that will support the agencies' transportation requirements. The GSA offices cited in § 101-40.101-1 may be contacted for assistance, if needed.

§ 101-40.111 Maintenance of tariff files.

(a) The Transportation and Public Utilities Services, National Capital Region, General Services Administration (WTT), Washington, DC 20407, shall maintain a master file of carrier tariffs covering all modes and methods of transportation commonly used by executive agencies. Each of the 10 other Transportation and Public Utilities Service, GSA, regional offices will maintain a tariff file sufficient to meet the normal requirements of the executive agencies located within the area of responsibility of the GSA regional office.

(b) Executive agencies may maintain only those tariffs necessary to meet their routine operational requirements. Agencies may use GSA tariff files to meet unusual or abnormal transportation needs; or, alternatively, may request GSA to furnish rates, freight or passenger routings, or other tariff information. (See § 101-40.301 for use of GSA-furnished rates and routes.)

§ 101-40.112 Transportation factors in the location of Government facilities.

(a) Transportation rates, charges, and commercial carrier transportation services shall be considered and evaluated before selecting new site locations and during the planning and construction phases in the establishment of leased or relocated Government installations or facilities.

(b) If changes in the location, relocation or deactivation of Government installations or facilities are contemplated and will result in significant changes in the movement of property, executive agencies shall use the traffic management services of GSA to ensure that consideration is given to the various transportation factors that may be involved in this relocation or deactivation.

§ 101-40.113 Employee travel and relocation allowances.

The General Services Administration has the responsibility to prescribe and promulgate regulations governing employee travel and relocation allowances. These allowances are published in the Federal Travel Regulations and the Commuted Rate Schedule for Transportation of Household Goods. These regulations are incorporated by reference into Part 101-7. Amendments are made to these regulations from time to time as conditions warrant. Suggestions or questions concerning regulations governing employee travel and relocation allowances may be addressed to the Director, Federal Travel Management Division, Transportation and Public Utilities Service, General Services Administration (TTT), Washington, DC 20406.

Subpart 101–40.2—Centralized Household Goods Traffic Management

SOURCE: 45 FR 85755, Dec. 30, 1980, unless otherwise noted.

§ 101-40.200 Scope of subpart.

This subpart prescribes regulations concerning the movement of household goods and personal effects of Government employees (and their families) who are eligible for relocation in connection with their employment. Under the centralized household goods traffic management program, GSA will provide agencies with cost comparisons, the names of carriers eligible to handle specific shipments, and requested administrative support related to the Government employees' household goods movements.

§ 101-40.201 Applicability.

(a) This subpart applies to executive agencies. In addition to the Department of Defense, uniformed personnel of the U.S. Coast Guard are exempt from this subpart.

(b) Cost comparisons between the commuted rate system and the actual expense method, as required in § 101-40.203-4, apply only to movements within the conterminous United States.

§ 101-40.202 The General Services Administration Household Goods Tender of Service (TOS) agreement.

As part of the centralized household goods traffic management program, GSA has developed a master household goods tender of service (TOS) agreement. This agreement establishes carrier service and performance standards which participating carriers agree to provide. Commercial carriers who desire to participate in this program must enter into an individual TOS agreement with GSA, acting in behalf of executive agencies. Carriers that desire to enter into a TOS agreement or agencies desiring additional information should contact the Office of the Assistant Commissioner for Transportation and Travel Management, General Services Administration (TTMS), Washington, DC 20406.

§ 101-40.203 Household goods movement evaluation procedures.

§ 101-40.203-1 Household goods rate tenders.

GSA will accept or reject household goods carriers' rate tenders (see § 101-40.306) on behalf of executive agencies.

(a) *Interstate shipments.* Household goods carriers' TOS agreements and individual carrier rate tenders covering interstate shipments shall be submitted to the Office of the Assistant Commissioner for Transportation and Travel Management, General Services Administration (TTMS), Washington, DC 20406.

(b) *Intrastate shipments.* Household goods carriers' TOS agreements and individual carrier rate tenders covering intrastate shipments shall be submitted to the appropriate GSA office specified in § 101-40.101-1 which has responsibility over the State specified in the rate tender.

§ 101-40.203-2 The actual expense method.

(a) For the purpose of the centralized household goods traffic management program described in this Subpart 101-40.2, authorized shipments of Government employees' household goods moving under a Government bill of lading (GBL) are classified as "actual expense method" shipments. Under this method the appropriate GSA office specified in § 101-40.101-1 that processes the shipment (1) furnishes the cost comparison (see § 101-40.230-4), (2) specifies the name(s) of carrier(s) eligible to handle the shipment, and (3) will assist in an advisory capacity in filing loss and damage claims, if requested. Under this method, the Government, not the employee, is considered as the shipper, and the Government reimburses the carrier for the applicable transportation charges. The actual cost of transportation, including related accessorial carrier services, falling within the employee's authorized weight allowance (11,000 pounds for employees with immediate families; 7,500 pounds for employees without immediate families) shall be allowed at the Government's expense. Under the actual expense method, the shipment is made using a GBL. Agencies are responsible for preparing the GBL, booking the shipment and filing loss and damage claims.

(b) When an agency makes the final determination that the actual expense method will be used, the Government's financial obligation for the shipment of the employee's household goods is established. Once the actual expense method is authorized as the most economical means of shipment and the employee chooses to move all or part of the household goods by some other means, reimbursement will be limited to the cost that would have been incurred by the Government if the shipment had been made in one lot from one origin to one destination by the available low cost carrier on a Government bill of lading.

(c) When an employee chooses, for personal reasons, to use a higher cost carrier than the carrier selected by the Government, excess costs will be paid by the Government directly to the carrier and then collected from the employee. Agencies are cautioned to counsel employees as to their responsibilities under this alternative.

(d) When an employee chooses to use a rental truck, trailer or private conveyance, reimbursement will be limited to the actual costs incurred (e.g., truck rental, material handling equipment, packaging materials, gasoline, toll charges, etc.) not to exceed the maximum amount authorized in paragraph (b) of this section.

§ 101-40.203-3 The commuted rate schedule.

The commuted rate schedule is published in GSA Bulletin FPMR A-2 and contains allowances for reimbursement of Government employees who are authorized to transport their household goods at Government expense. In addition to transportation allowances, the commuted rate schedule includes allowances for various related accessorial expenses, including packing and crating, storage-in-transit, carrier labor charges, appliance servicing, and piano/organ handling. Under the commuted rate schedule the employee is responsible for making all arrangements with the carrier; filing loss and damage claims, if any, with the carrier; and making payment to the carrier after the shipment has been completed. Under the commuted rate schedule, the shipment is moved using a commercial bill of lading (CBL). The use of household goods rate tenders (see § 101-40.203-1) is not authorized when household goods are shipped under the commuted rate schedule.

§ 101-40.203-4 Cost comparisons.

(a) As stated in paragraph 2-8.3c(4)(a) of the Federal Travel Regulations (FPMR Part 101-7), the commuted rate system shall be used for individual employee transfers without consideration being given to the actual expense method, except that the actual expense method may be used if the actual costs to be incurred by the Government for packing and other accessorial services are predetermined (at least as to price per 100 pounds) and if that method is expected to result in a real savings to the Government of $100 or more. Under the centralized household goods traffic management program, agencies shall obtain cost comparisons from the appropriate GSA, TPUS, office specified in § 101-40.101-1.

(b) Requests for cost comparisons shall be made as far in advance of the moving date as possible (preferably 30 calendar days) and shall contain the following information:

(1) Name of employee to be moved;

(2) Origin city, county, and State;

(3) Destination city, county, and State;

(4) Anticipated or actual date household goods are to be picked up;

(5) Estimated weight of shipments;

(6) Number of days storage-in-transit is required (if applicable); and

(7) Other pertinent data.

(c) Agencies should use GSA Form 2485, Cost Comparison for Shipping Household Goods (Commuted Rate System vs. Actual Expense Methods) for this purpose. (See § 101-40.4906-8.) In case of an emergency or an imminent moving date (less than 10 workdays), these details may be transmitted to GSA by phone. If information is received by phone, the response will be made by phone when requested. Regardless, all cost comparisons and carrier selection information will be confirmed in writing by GSA. Agencies will make the final determination as to the method of shipment (actual expense method or commuted rate system), based on the results of the cost comparison furnished by GSA.

§ 101-40.204 Carrier selection and distribution of shipments.

Results of the cost comparison will be furnished to the requesting agency together with the names and points of contract for at least three qualified carriers eligible to handle the shipment. If the rates of these carriers differ, the carrier offering the lowest rate should be used by the requesting agency. Carriers offering higher rates or charges should be used only if the less costly carrier cannot accept the shipment.

§ 101-40.205 Quality control.

(a) When the GSA, TPUS, Office specified in § 101-40.101-1 furnishes a cost comparison indicating that the actual expense method is less costly, a GSA Form 3080, Household Goods Shipment Report (See § 101-4906-9) shall be provided together with GSA Form 2485 to the requesting agency. GSA Form 3080 is a mailable form that contains a self-addressed portion, which shall be completed by the moving employee. The agency's employee should be instructed to complete the GSA Form 3080, indicating the quality of performance of the household goods carrier upon completion of the household goods move, and to mail it to the GSA office which provided the cost comparison. Information compiled from completed reports will be used by GSA to monitor carrier performance and to determine whether suspension or disqualification actions should be considered as provided in § 101-40.208.

(b) Agencies may submit other documented instances of inadequate carrier service or performance to GSA, TPUS, offices specified in § 101-40.101-1. Sufficient details must be furnished to identify specific shipments.

§ 101-40.206 Household goods carriers' liability.

(a) Ordinarily, it is the policy of the Government to assume its own risks of loss. (See also § 1-19.107 of this title.) This policy also applies to personal property during transportation. Therefore, when a Government employee's household goods are shipped under the commuted rate system using a CBL or under the actual expense method using a GBL, they are based on a limited carrier liability of 60 cents per pound per article.

(b) In the event of loss or damage, the employee's recovery from the carrier is restricted to this limited carrier liability. Carriers have tariff provisions that provide increased liability at a valuation of $1.25 times the weight of the shipment in pounds or a higher lump sum according to the employee's value of the shipment. These higher valuations are generally available at 50 cents per $100 of valuation. However, the added cost for the increased carrier liability is not reimbursable by the Government but must be borne by the employee. Under the actual expense method, if the employee requests a higher valuation and agrees in writing, the excess cost will be paid by the Government and then collected from the employee. This information applies to interstate shipments. Carrier liability and increased valuation charges may differ on intrastate shipments. For these shipments, the appropriate GSA office should be contacted.

§ 101-40.207 Household goods loss and damage claims.

Claims for loss or damage to household goods will normally be filed and processed with the destination or delivering carrier as part of the bill of lading contract between the carrier and the shipper. When shipments are made under the commuted rate system using a CBL, the employee, as the shipper, is responsible for filing claims. When shipments are made under the actual expense method using a GBL, the issuing agency, as the shipper, will assist the employee in filing claims. Under the Military and Civilian Employees' Claims Act of 1964, as amended (31 U.S.C. 241), employees may file claims against the United States for not more than $15,000 for damage to or loss of personal property incident to the employee's service; this applies to commuted rate moves as well as actual expense moves. If the carrier's liability stated in § 101-40.206 is less than the loss or damage sustained by the employee, executive agencies may use the provisions of this act to more fully compensate the employee. Agencies should advise their employees regarding the use of this act for reimbursement of loss and damage to household goods shipments using a CBL or GBL. Additional information concerning processing loss and damage claims may be obtained from the appropriate GSA, TPUS, office specified in § 101-40.101-1.

§ 101-40.208 Disqualification or suspension of household goods carriers.

Based on information obtained from completed GSA Forms 3080 or documented instances of other service complaints or deficiencies, GSA, TPUS offices or executive agencies may disqualify or suspend household goods carriers in accordance with the procedures specified in § 101-40.4.

Subpart 101-40.3—Rates, Routes, and Services

SOURCE: 45 FR 85756, Dec. 30, 1980, unless otherwise noted.

§ 101-40.300 Scope of subpart.

This subpart prescribes regulations governing the determination and use of rates and related data in the transportation of persons and property for the Government; selection of the mode of transportation and the carrier or carriers within the mode; and negotiations of classification ratings, rates, and services.

§ 101-40.301 GSA rate and routing services.

(a) Except as otherwise provided in this subpart, executive agencies shall obtain rate and/or routing information from the appropriate GSA transportation office specified in § 101-40.101-1 when they have a planned group of 25 or more individuals traveling at one time from the same origin to the same destination or when they have freight shipments that fall within the following categories:

Shipment category	Shipment weight
Surface shipments (other than uncrated used household goods) (See 101-40.305-3(a) for exemption).	10,000 pounds and over or shipments that occupy the full visible capacity (see note) of a railcar or intercity motor vehicle regardless of weight.
Air shipments	1,000 pounds and over.
Uncrated used household goods shipments.	All shipments, regardless of weight (except will not apply on shipments moving in foreign commerce). (See Subpart 101-40.2 for shipments moving within the conterminous U.S.)

NOTE: Full visible capacity generally means that quantity of freight which in the manner loaded so fills a vehicle that no additional article in the shipping form tendered identical in size to the largest article in the shipment can be loaded in or on the vehicle. Consult governing tariffs for precise definition and application.

(1) Exemption to the provisions of § 101-40.301(a) is granted to the Federal Emergency Management Agency (FEMA), Department of Energy (DOE), National Aeronautics and Space Administration (NASA) and United States Department of Agriculture (USDA) to the following extent:

FEMA Initial positioning of mobile homes shipped in response to disasters.

DOE	Priority energy and classified defense and nuclear waste management shipments.
NASA	Shipments of key, critical items necessary to the success of space and aerospace research, development, acquisition, flight or launch activities.
USDA	Emergency shipments of forest fire fighting materials and equipment. Household goods shipments to and from isolated areas.

(2) To meet other transportation exigencies of a critical and recurring nature, executive agencies including those agencies exempted to the extent noted in paragraph (a)(1) of this section may request the GSA transportation office having jurisdiction (See § 101-40.101-1) to grant relief from the routing requirements of this section. In a local emergency, which precludes the requesting of routing instructions in accordance with the requirements of this section, routing by any mode may be made without prior approval. Requests for exemption shall be in writing, and the GSA transportation office will accept or deny the request by written instructions to the requesting agency. Exemptions will apply for a duration of time not to exceed one year, however, on written request an exemption may be renewed or extended.

(b) Agencies shall submit requests for rate and route information to the appropriate regional office, Transportation and Public Utilities Service, General Services Administration, listed in § 101-40.101-1. Agencies may telephone urgent requests to GSA. Replies will be made by telephone and confirmed upon request by the use of GSA Form 420 or GSA 2485, as appropriate.

(1) On shipments that are rated or routed by GSA, agencies will furnish the necessary details concerning the shipment as far in advance of the proposed shipping date as possible. For freight shipments, GSA Form 420, Freight Rate and Route Request/Response (see § 101-40.4906-1) may be used for this purpose. The procedures in Subpart 101-40.2 shall be followed when requesting household goods rate and route information on shipments moving within the conterminous United States.

(2) To eliminate the need for repetitive routing instructions, the GSA transportation offices listed in § 101-40.101-1 may issue standing route orders to cover normal repetitive movements (two or more shipments per month) of specific items between specified points by any mode of transportation. Ordinarily, a standing route order will be issued when the origin, destination, commodity(ies) and frequency of shipments constitute a repetitive traffic pattern. The GSA transportation office will maintain a standing route order file and review routings at 60 day intervals from the date of their issuance to assure current application of rates, ratings, routes and classification. When required by changed conditions, GSA shall provide the requesting agency with revised routing instructions.

(c) Agencies are encouraged, but not required, to request GSA-furnished rate or routing information for their freight shipments that are less than the shipment weights specified in paragraph (a) of this section.

(d) Executive agency shippers will comply with all state and local, as well as Federal, laws and regulations relating to vehicular size and weight limitations.

§ 101-40.302 Standard routing principle.

Shipments shall be routed using the mode of transportation, or individual carrier or carriers within the mode, that can provide the required service at the lowest overall delivered cost to the Government.

§ 101-40.303 Application of the standard routing principle.

In the application of the standard routing principle, the major factors to be considered are, in the order of their importance, satisfactory carrier service, overall cost considerations, most fuel efficient carrier/mode, and equitable distribution of traffic among carriers.

§ 101-40.303-1 Service requirements.

The following factors shall be considered in determining whether a carrier or mode of transportation can meet an agency's transportation service requirements for each individual shipment:

(a) Availability and suitability of carrier equipment;

(b) Shipping and receiving facilities at origin and destination;

(c) Pickup and/or delivery service (including inside pickup or delivery), if required;

(d) Availability of required accessorial and special services, if needed;

(e) Estimated time in transit;

(f) Record of past performance of the carrier; and

(g) Transit privileges when available.

§ 101-40.303-2 Cost considerations.

When developing cost comparisons to determine the most economical routing of shipments consistent with service requirements, consideration shall be given to costs of packing, loading and unloading, bracing, blocking, extra handling, drayage, pickup and delivery, and other accessorial services, as well as the line-haul rate.

§ 101-40.303-3 Most fuel efficient carrier/mode.

When more than one mode, or more than one carrier within a mode, can satisfy the service requirements of a specific shipment at the same lowest aggregate delivered cost, the carrier/mode determined to be the most fuel efficient shall be selected. In determining the most fuel efficient carrier/mode, consideration shall be given to such factors as use of the carrier's equipment in "turn around" service, proximity of carrier equipment to the shipping activity, and ability of carriers to provide the most direct service to the destination points.

§ 101-40.303-4 Equitable distribution of traffic among carriers.

When more than one mode of transportation, or more than one carrier within a mode, can provide equally satisfactory service at the same overall cost and all modes are equally fuel efficient, the traffic shall be distributed as equally as practicable among the modes and among the carriers within the modes.

§ 101-40.304 Description of property for shipment.

(a) Each shipment shall be described on the bill of lading or other shipping document as specified by the governing freight classification, carrier's tariff, or rate tender. Shipments shall be described as specifically as possible. Trade names such as "Foamite" or "Formica" or general terms such as "vehicles," "furniture," or "Government supplies," shall not be used as bill of lading descriptions.

(b) A shipment containing hazardous materials, such as explosives, flammable liquids, flammable solids, oxidizers, or poison A or poison B, shall be prepared for shipment and described on bills of lading or other shipping documents in accordance with the Department of Transportation Hazardous Materials Regulations, 49 CFR Parts 170 thru 177.

(c) Agency requests for specific freight descriptions shall be submitted to the appropriate Transportation and Public Utilities Service office as listed in § 101-40.101-1.

§ 101-40.305 Transportation negotiations.

§ 101-40.305-1 Negotiations by GSA.

Except as provided in § 101-40.305-3, GSA will conduct all transportation negotiations for executive agencies to establish or modify rates, fares, charges, ratings, services, and the rules or regulations pertaining thereto.

§ 101-40.305-2 Cost analysis required on substantial movements.

Except as provided in § 101-40.305-3, executive agencies shall submit to the appropriate GSA regional Transportation and Public Utilities Service office, as listed in § 101-40.101-1, complete information concerning planned transportation so that a cost analysis may be made to determine whether negotiation is appropriate. This information should be submitted as far in advance of the planned transportation as possible. The information supplied shall be detailed and shall include but not be limited to the number of individuals traveling as a group, property characteristics (those requiring shipment in bags, boxes or bulk; hazardous properties; weight; dimension; density; value; and susceptibility to damage), origin, destination, number of shipments, weight per shipment, planned shipping schedule, and planned required delivery date. The provisions of this subsection shall apply to all transportation payable by the Government.

§ 101-40.305-3 Negotiations by other executive agencies.

Except for the transportation of an employee's personal household goods and the relocation of offices, the executive agencies are authorized to initiate and conduct negotiations on their own behalf under the following conditions:

(a) When the total planned quantity of property to be shipped does not exceed 100,000 pounds per shipment or when the known aggregate of several shipments will not exceed 100,000 pounds.

NOTE: Agencies making surface shipments under agency-negotiated rates are exempt from obtaining GSA rate and routing information as required in § 101-40.101-1.(1).

(b) Except as otherwise provided in the Federal Property Management Regulations A-15, or as it may be amended, when planned group travel, under Standard Form 1169, U.S. Government Transportation Request, consists of fewer than 25 individuals traveling at one time from the same origin to the same destination.

(c) When the planned shipment is less than that which would require the assessment of carload or truckload rates.

(d) When approval to negotiate is granted by the General Services Administration (TT), Washington, DC 20406, or the appropriate GSA regional Transportation and Public Utilities office.

NOTE: § 101-40.305-3 does not prohibit executive agencies from seeking GSA assistance in negotiations.

§ 101-40.306 Rate tenders to the Government.

Under the provisions of section 10721 (formerly section 22) of the Interstate Commerce Act (49 U.S.C. 10721), common carriers are permitted to submit tenders to the Government which contain rates lower than published tariff rates available to the general public. In addition, rate tenders may be applied to shipments other than those made by the Government provided the total benefits accrue to the Government; that is, provided the Government pays the charges or directly and completely reimburses the party that initially bears the freight charges (Interpretation of Government Rate Tariff for Eastern Central Motor Carriers Association, Inc., 332 I.C.C. 161 (1968)).

§ 101-40.306-1 Recommended rate tender format.

(a) Only those rate tenders which have been submitted by the carriers in writing and which apply to shipments of the U.S. Government shall be considered for use by executive agencies. Carriers should be encouraged to use Optional Form 280, Uniform Tender of Rates and/or Charges for Transportation Services, illustrated in § 101-40.4906-2, when preparing and submitting rate tenders to the Government. Rate tenders that are ambiguous in meaning shall be resolved in favor of the Government; therefore, explicit terms and conditions are necessary to preclude misunderstandings by the parties to the rate tender.

(b) Carriers may purchase Optional Form 280 from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or print it commercially. When ordering this form from the Superintendent of Documents, specify national stock number 7540-01-092-8057. When printing this form commercially, carriers shall ensure that the form conforms to the same size, wording, and arrangement of the approved optional form and, while no minimum grade or paper is set, carriers shall provide a reasonable grade of paper stock.

§ 101-40.306-2 Required shipping documents and annotations.

(a) To qualify for transportation under section 10721 rates, property must be shipped by or for the Government on:

(1) Government bills of lading;

(2) Commercial bills of lading endorsed to show that these bills of lading are to be converted to Government bills of lading after delivery to the consignee; or

(3) Commercial bills of lading showing that the Government is either the consignor or the consignee and endorsed with the following statement: "Transportation hereunder is for the (name the specific agency, such as the General Services Administration) and the actual total transportation charges paid to the carrier(s) by the consignor or consignee are assignable to, and are to be reimbursed by, the Government."

(b) When a rate tender is used for transportation furnished under a cost-reimbursable contract, the following endorsement shall be used on covering commercial bills of lading:

> "Transportation hereunder is for the (name the specific agency, such as the General Services Administration), and the actual total transportation charges paid to the carrier(s) by the consignor or consignee are to be reimbursed by the Government, pursuant to cost reimbursable contract number ( ).
>
> This may be confirmed by contacting the agency representative at (name and telephone number)." (See 332 ICC 161.)

(c) To ensure proper application of a Government rate tender on all shipments qualifying for their use, the issuing officer shall show on the bills of lading covering these shipments the applicable rate tender number and carrier identification, such as, "ABC Transportation Company, Tender ICC No. 374." In addition, if commercial bills of lading are used, they shall be endorsed as specified in paragraphs (a) or (b) of this section, as necessary.

§ 101-40.306-3 Distribution.

Each agency receiving rate tenders shall promptly submit one signed copy to the Transportation and Public Utilities Service, General Services Administration WTT, Washington, DC 20407. Also, two copies (including at least one signed copy) shall be promptly submitted to the General Services Administration (TAD), Chester A. Arthur Building, Washington, DC 20406.

§ 101-40.306-4 Bill of lading endorsements.

To ensure application of Government rate tenders to all shipments qualifying for their use, bills of lading covering the shipments shall be endorsed with the applicable tender or quotation number and carrier identification; e.g., "Section 10721 quotation ABC Transportation Company I.C.C. No. 143." In addition, where commercial bills of lading are used rather than Government bills of lading, the commercial bills of lading shall be endorsed in conformance with the provisions set forth in § 101-40.306-2(a). (For specific regulations covering transportation generated under cost-reimbursement type contracts, see § 1-19.109 of this title.)

Subpart 101-40.4—Temporary Nonuse, Disqualification, and Suspension of Carriers

Source: 45 FR 85759, Dec. 30, 1980, unless otherwise noted.

§ 101-40.400 Scope of subpart.

This subpart prescribes policies and procedures governing the temporary nonuse, disqualification, and suspension of carriers transporting freight, household goods, or passengers for the account of executive agencies.

§ 101-40.401 General.

Temporary nonuse, disqualification, and suspension are measures taken to exclude carriers from participating in GSA routed or unrouted movements of persons or freight under tariffs, tenders of service, commercial or Government bills of lading, and similar arrangements. To ensure that the Government derives the benefits of full and free competition of interested carriers, temporary nonuse, disqualification, and suspension shall not apply for any period of time longer than necessary to protect the interests of the Government.

§ 101-40.402 Temporary nonuse of carriers.

GSA, TPUS regional offices or other executive agencies may place carriers that serve the agency in a temporary nonuse status for a maximum period of 30 calendar days when the carriers do not show a willingness or ability to meet the transportation service requirements of the agency. (Consecutive 30 calendar day nonuse periods shall require advance approval of the Director, Transportation Management Division, TPUS, General Services Administration (TTM), Washington, DC 20406, *and shall not be used to avoid the procedures and requirements of § 101-40.403 or § 101-40.404.*) No component of an executive agency shall apply temporary nonuse actions against a carrier for a violation made by that same carrier in serving a different component of the same or another agency. Compliance with applicable laws and regulations that preclude arbitrary or capricious actions, among other things, rests upon the agency placing a carrier in this status.

§ 101-40.402-1 Agency responsibility.

(a) Agencies placing a particular carrier in a temporary nonuse status shall fully document that action with specific instances of carrier nonperformance, which may include but are not limited to the causes and conditions set forth in § 101-40.403-1. The documentation shall also include information showing that the carrier was provided with prior notices of service deficiencies and was afforded a reasonable opportunity to correct or explain these deficiencies.

(b) The carrier shall, by certified mail, with return receipt requested, be notified by the agency concerning the proposed 30 calendar day temporary nonuse status. This notice shall include:

(1) The proposed period of nonuse;

(2) The reasons for placing the carrier in a temporary nonuse status;

(3) The corrective actions that may be taken by the carrier for reinstatement;

(4) The time period of 7 calendar days afforded the carrier to present information refuting the proposed temporary nonuse status (information from the carrier must be *received* by the agency within 7 calendar days from the date notice is received by the carrier. If the carrier presents information within the allotted time, the agency must determine within 7 calendar days of receiving the carrier's data whether to place the carrier in temporary nonuse status).

(5) The date on which temporary nonuse status commences in the event that information from the carrier is not received by the agency within the 7 calendar day period provided in paragraph (b)(4) of this section.

(c) The agency shall review the carrier's reply, and shall prepare a response according to the facts presented. The agency's decision is administratively final.

(d) Copies of the notification to the carrier of the proposed temporary nonuse status and supporting documentation shall be forwarded immediately to: Director, Transportation Management Division, Transportation and Public Utilities Service, General Services Administration (TTM), Washington, DC 20406.

(e) The agency shall also furnish the Director, Transportation Management Division, Transportation and Public Utilities Service, General Services Administration (TTM), Washington, DC 20406, a recommendation for disqualification or suspension, if considered necessary. If further action is warranted, appropriate measures in accordance with the provisions of this Subpart 101-40.4 will be initiated.

§ 101-40.403 Administrative disqualification of a carrier.

GSA may, in the public interest, disqualify a carrier from participation in traffic for any of the causes and under any of the conditions set forth in § 101-40.403-1.

§ 101-40.403-1 Causes and conditions for disqualification.

The causes and conditions for which a carrier may be disqualified by GSA are set forth in paragraphs (a) through (h) of this § 101-40.403-1.

(a) Willful violations of the terms of the tariffs, tenders of service, commercial or Government bills of lading, or similar arrangements determining the relationship of the parties.

(b) A record of failure to perform or of unsatisfactory performance in accordance with the terms of tariffs, tenders of service, commercial or Government bills of lading, or similar arrangements determining the relationship of the parties. Failure to perform or unsatisfactory performance includes but is not limited to the following:

(1) Failure to meet requested packing/pickup dates;

(2) Deliveries exceeding time-in-transit standards when established by the Government; e.g., the General Services Administration household goods tender of service and transit times established for shipments from Federal Supply Service distribution facilities;

(3) Failure to meet required delivery dates on Government or commercial bills of lading;

(4) Failure to furnish and use clean and safe equipment;

(5) Violation of Department of Transportation (DOT) hazardous materials regulations;

(6) Mishandling of freight; e.g., damaged or missing transportation seals or improper loading, blocking, packing, or bracing;

(7) Excessive loss or damage;

(8) Improper routing;

(9) Failure to pay just debts so as to subject Government shipments to possible frustration, unlawful seizure, or detention;

(10) Failure to maintain insurance coverage;

(11) Expiration of carrier exemption, permit, or authority;

(12) Failure to settle claims in accordance with applicable Government regulations; and

(13) Repeated failure to comply with the regulations of DOT, the Interstate Commerce Commission, or State and local governments; or repeated failure to comply with any other applicable Government regulations.

(c) A conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract, or subcontract, thereunder, or as an incident to performing the contract or subcontract;

(d) A conviction under the Organized Crime Control Act of 1970 or a conviction of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which seriously and directly affects the question of present responsibility as a carrier of Government property.

(e) A conviction under the Federal antitrust statutes arising out of the submission of bids or proposals.

(f) Inclusion in a list issued by the Comptroller General (as provided in part 5, section 56(b) of the regulations issued by the Secretary of Labor under the authority of Reorganization Plan 14 of 1950) as found by the Secretary of Labor to be in aggravated or willful violation of the prevailing wage or overtime pay provisions of applicable regulations or statutes;

(g) A finding by the Director, Office of Federal Contract Compliance, Department of Labor, of noncompliance with the provisions of the Equal Employment Opportunity Clause; and

(h) Any other cause or condition of a serious or compelling nature affecting the present responsibility as a carrier of Government property.

§ 101-40.403-2 Disqualification procedures.

(a) *Disqualification for periods of 90 calendar days or less*—(1) *Determining official.* A determination to disqualify a carrier for 90 calendar days or less will be made by the following GSA offical: Director, Transportation Management Division, Office of Transportation and Travel Management, Transportation and Public Utilities Service, General Services Administration (TTM), Washington, DC 20406. Notwithstanding the provisions of § 101-40.403-2, the Director, if he determines such action to be in the best interest of the United States, may deny awards of Government traffic to a carrier during the period commencing with the notice of proposed disqualification and continuing during the pending disqualification determination. In such event, the carrier shall be advised of the action and the basis therefor.

(2) *Notice of proposed disqualification.* GSA will, by certified mail, with return receipt requested, forward to the carrier and, if appropriate, to the carrier's known affiliates, a notice of

proposed disqualification which will state:

(i) That disqualification is being considered;

(ii) The reasons that disqualification is being considered;

(iii) The proposed period of disqualification;

(iv) The time period of 10 calendar days afforded the carrier to present information refuting the proposed disqualification (information from the carrier must be *received* by GSA within 10 calendar days from the date the carrier receives the notice. The carrier may within that 10 calendar day period request the Director, Transportation Management Division (TTM), to grant an additional 5 days for presenting refuting information).

(3) *Carrier presentation of information.* The carrier may present information refuting the proposed disqualification in writing, in person, or through representation, to the Director, Transportation Management Division.

(4) *Disqualification determination.* (i) If within the time limit specified in paragraph (a)(2)(iv) of this section GSA receives the carrier's data refuting the proposed disqualification, GSA's determination to disqualify the carrier must be made within 20 calendar days after receipt of those data.

(ii) If, within the time period specified in paragraph (a)(2)(iv) of this section, the carrier neither refutes the notice of proposed disqualification nor requests additional time to present refuting information, GSA shall disqualify the carrier for the period specified in the notice of proposed disqualification.

(5) *Carrier notification of disqualification determination.* When a carrier's refuting information is duly filed and received, GSA will notify the carrier by certified mail, with return receipt requested, whether the disqualification will apply. If the disqualification applies, the notice will specify the reasons for the disqualification as well as the period during which disqualification will be in effect.

(6) *Period of disqualification.* A period of disqualification for 90 calendar days or less shall begin on the first day following the date on which the carrier is notified of the determination to disqualify. If the carrier neither refutes the notice of proposed disqualification nor requests additional time to present refuting information as provided in paragraph (a)(2)(iv) of this section, the period of disqualification will commence on the first day following the expiration of the appeal period.

(7) *Request for review of determination.* A carrier may request that a review of a determination to disqualify for 90 calendar days or less be made by the Assistant Commissioner for Transportation and Travel Management, Transportation and Public Utilities Service, GSA. The request for review shall be forwarded to the General Services Administration (TT), Washington, DC 20406, within 10 calendar days after receipt of the disqualification notice. The Assistant Commissioner will issue a determination within 10 calendar days after receipt of the carrier's request. The carrier will be notified of this determination by certified mail with return receipt requested. The determination of the Assistant Commissioner shall be administratively final.

(b) *Disqualification for periods of more that 90 calendar days*—(1) *Determining official.* A determination to disqualify a carrier for more than 90 calendar days will be made by the following GSA official: Assistant Commissioner for Transportation and Travel Management, Transportation and Public Utilities Service, General Services Administration (TT), Washington, DC 20406. Nothwithstanding the provisions of § 101-40.403-2, the Assistant Commissioner, if he determines such action to be in the best interest of the United States, may deny awards of Government traffic to a carrier during the period commencing with the notice of proposed disqualification and continuing during the pending disqualification determination. In such event, the carrier shall be advised of the action and the basis therefor.

(2) *Notice of proposed disqualification.* GSA will, by certified mail, with return receipt requested, forward to the carrier and, if appropriate, to the

carrier's known affiliates, a notice of proposed disqualification which states:

(i) The disqualification is being considered;

(ii) The reasons that disqualification is being considered;

(iii) The proposed period of disqualification; and

(iv) The time period of 20 calendar days afforded the carrier to present information refuting the proposed disqualification (information from the carrier must be *received* by GSA within 20 calendar days from the date carrier receives the notice. The carrier may within that 20 calendar day period request the Assistant Commissioner for Transportation and Travel Management, to grant an additional 5 days for presenting refuting information).

(3) *Carrier presentation of information.* The carrier may present information refuting the proposed disqualification in writing, in person, or through representation, to the Assistant Commissioner.

(4) *Disqualification determination.* (i) If within the time limit specified in paragraph (b)(2)(iv) of this section, GSA receives the carrier's data refuting the proposed disqualification, GSA's determination whether to suspend the carrier will be made within 30 calendar days after receipt of those data.

(ii) If within the time limit specified in paragraph (b)(2)(iv) of this section the carrier neither refutes the notice of proposed disqualification nor requests additional time to present refuting information, GSA shall disqualify the carrier for the period of time specified in the notice of proposed disqualification.

(5) *Carrier notification of disqualification determination.* When a carrier's refuting information is duly filed and considered, GSA will notify the carrier by certified mail, with return receipt requested, whether disqualification will apply. If disqualification applies, the notice will specify the reasons for the disqualification as well as the period during which disqualification will be in effect.

(6) *Period of disqualification.* (i) A period of disqualification for more than 90 calendar days shall begin on the first day following the date on which the carrier is notified of the determination to disqualify. If the carrier neither refutes the notice of proposed disqualification nor requests additional time to present refuting information as provided in paragraph (b)(2)(iv) of this section, the period of disqualification will commence on the first day following the expiration of the appeal period.

(ii) A disqualification under this § 101-40.403-2(b) for causes other than failure to comply with the provisions of the Equal Employment Opportunity clause will be for a reasonable, specified period of time commensurate with the seriousness of the offense or the failure or inadequacy of performance. As a general rule, a period of disqualification will not exceed 3 years. If it is determined necessary to extend a period of disqualification, GSA will forward a new notice of proposed disqualification in accordance with § 101-40.403-(b)(2) on or about the expiration date of the disqualification period. Notifications of extended periods of disqualifications will be handled in the same manner as initial periods of disqualifications.

(iii) A disqualification under this § 101-40.403-2(b) for failure to comply with the provisions of the Equal Employment Opportunity clause will generally continue until removed by the Director, Office of Federal Contract Compliance, Department of Labor.

(7) *Request for review of determination.* A carrier may request that a review of a determination to disqualify for more than 90 calendar days be made by the Commissioner, Transportation and Public Utilities Service (TPUS), GSA. The request for review shall be forwarded to the General Services Administration (T), Washinton, DC 20406, within 10 calendar days after receipt of the disqualification notice. The Commissioner will issue a determination within 30 calendar days after receipt of the carrier's request. The carrier will be notified of this determination by certified mail. The determination of the Commissioner shall be administratively final.

(8) *Application for relief from disqualification.* Except as precluded by statute, GSA may terminate or reduce

the period of time of a disqualification on the basis of appropriate evidence that the causes and conditions for which the disqualification was imposed have been eliminated or corrected. A carrier may apply to the Assistant Commissioner for Transportation and Travel Management for the granting of relief from a disqualification at any time after receipt of the notice of disqualification. The application shall fully document the reasons for the requested relief, which may include but are not limited to the discovery of new material evidence, the reversal of a conviction, or the bona fide change of ownership or management. The Assistant Commissioner for Transportation and Travel Management will review the application and supporting documentation and notify the carrier of a determination by certified mail with return receipt requested.

[45 FR 85760, Dec. 30, 1980; 46 FR 14894, Mar. 3, 1981]

§ 101-40.404 Suspension of carrier.

Suspension is an action that GSA may take against a carrier which is suspected, on the basis of adequate evidence, of engaging in criminal, fraudulent, or seriously improper conduct. In determining whether the evidence merits invoking a suspension, GSA will consider the creditability of the evidence available, the existence or absence of corroboration as to important allegations, and the inferences which may be drawn from the existence or absence of affirmative facts. This assessment will include an examination of basic documents, such as contracts, inspection reports, and correspondence. A suspension may be modified whenever GSA determines that it is in the best interest of the Government to do so.

§ 101-40.404-1 Causes and conditions for suspension.

GSA may, in the interest of the Government, suspend a carrier from participation in traffic for the causes and under the conditions set forth in this § 101-40.404-1:

(a) Suspicion, based upon adequate evidence, of the following:

(1) Commission of fraud or a criminal offense either as an incident to obtaining or attempting to obtain a public contract or in the performance of a public contract;

(2) Violation of the Federal antitrust statutes arising out of the submission of bids or proposals; or

(3) Commission of an act in violation of the Organized Crime Control Act of 1970 or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which seriously and directly affects the question of present responsibility as a carrier of Government property.

(b) Any cause of a serious and compelling nature affecting the responsibility of a carrier which, in the determination of GSA, warrants suspension. However, suspensions relating to matters involving the Equal Opportunity clause shall be handled in accordance with regulations prescribed by the Secretary of Labor.

§ 101-40.404-2 Period of suspension.

Suspension is for a temporary period pending the completion of an investigation and any subsequent legal proceedings. If prosecution has not been initiated by the Department of Justice (DOJ) within 12 months from the issue date of a notice of suspension (see § 101-40.404-4), GSA will terminate the suspension unless DOJ requests continuance of the suspension. (GSA will notify DOJ of a proposed suspension termination 30 calendar days before expiration of the 12-month period.) If a continuation is requested, the suspension may remain in effect for an additional 6 months. However, no suspension shall continue beyond 18 months unless prosecution has been initiated within that period. If prosecution has been initiated, a suspension may continue until the legal proceedings are completed.

§ 101-40.404-3 Restrictions during period of suspension.

A suspended carrier will not be permitted to transport freight or passengers for the Government during the period of suspension, unless otherwise determined by GSA to be in the best interest of the Government.

§ 101-40.404-4 Notice of suspension.

A carrier that has been suspended by GSA will, by certified mail, with return receipt requested, be furnished with a notice of suspension issued by the following GSA official: Assistant Commissioner for Transportation and Travel Management, Transportation and Public Utilities Service, General Services Administration (TT), Washington, DC 20406. The notice of suspension shall state that:

(a) The suspension is based on (1) an outstanding indictment or (2) adequate evidence that the carrier has committed irregularities which seriously reflect on the propriety of further dealings of the carrier with the Government. (The notice will identify the indictment or describe the nature of the irregularities in general terms, without disclosing the Government's evidence.);

(b) The suspension is for a temporary period pending the completion of an investigation and any subsequent legal proceedings; and

(c) The carrier will be excluded from participating in the movement of freight and passengers for the Government, unless otherwise determined by the Assistant Commissioner for Transportation and Travel Management to be in the best interest of the Government.

§ 101-40.404-5 Review of suspension.

(a) *Carrier request for review.* A carrier suspended by GSA may request that a review of the suspension action be made by the Commissioner, Transportation and Public Utilities Service (TPUS), GSA, and that the carrier be provided an opportunity to present information refuting the suspension to the Commissioner, in person, in writing, or through representation. The request for review shall be forwarded to the General Services Administration (T), Washington, DC 20406.

(b) *Coordination with other executive agencies.* Upon receipt of a request for a review, GSA will seek the advice of other interested executive agencies as set forth below.

(1) *Coordination with Department of Justice (DOJ).* In all instances, GSA will solicit the formal advice of DOJ concerning the possible impact that the release of evidence could have on possible civil or criminal action against the carrier.

(2) *Coordination with the Department of Labor (DOL).* If the suspension is based upon violations of labor standards subject to legal proceedings before administrative law judges of DOL, GSA will solicit the formal advice of DOL concerning the possible proceedings against the carrier.

(c) *Response to carrier request for review.* GSA's decision on whether to grant the requested review will be based on the advice received from DOJ or DOL as to the possible effects of the release or disclosure of Government evidence. The Commissioner, TPUS, GSA, will notify the carrier of this decision by certified mail with return receipt requested. If a review is granted, GSA will, as necessary, determine the extent of the review and the conditions under which the review will be conducted and the carrier will be so notified. If a review is denied, the carrier will be notified that the release or disclosure of evidence which would occur as the result of a review would be prejudicial to the interest of the Government but that the carrier may, nevertheless, present any information refuting the suspension action to the Commissioner, TPUS, GSA.

(d) *GSA determination and carrier notification.* GSA will determine whether to continue or terminate the suspension following a review of the suspension action and/or consideration of information presented by the carrier to refute the suspension. The Commissioner, TPUS, GSA shall notify the carrier of this determination by certified mail with return receipt requested.

Subparts 101-40.5—101-40.6—[Reserved]

Subpart 101-40.7—Reporting and Adjusting Discrepancies in Government Shipments

SOURCE: 32 FR 8965, June 23, 1967, unless otherwise noted.

§ 101-40.700 Scope of subpart.

This subpart prescribes regulations and procedures for reporting and adjusting overages, shortages, losses, damages, and other discrepancies between the quantity or condition of property in shipments received from commercial carriers and the quantity or condition of that property as shown on the covering bill of lading or other transportation document. (Specific additional requirements for reporting discrepancies in shipments received from GSA or DOD are set forth in the GSA handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings, issued pursuant to Subpart 101-26.8.)

[42 FR 25858, May 20, 1977]

§ 101-40.701 Receipt of shipment from carrier.

When accepting delivery of a shipment from the carrier, a careful inspection and check shall be made of the quantity and condition of the property received, and an accurate record shall be made and kept of any discrepancies or variations between the data shown on the covering bill of lading or other transportation document and the quantity and condition of property actually received. When an overage, shortage, loss, damage, or other discrepancy is noted upon receipt of shipment, a discrepancy report shall be prepared as required in § 101-40.702-3. A damaged shipment shall not be rejected regardless of the degree of damage or the contract delivery terms, except as indicated in § 101-40.704-1(c). The consignee shall take reasonable precautions to protect the damaged property in order to mitigate the losses to the carrier. Care shall be taken to preserve the contents, the original package, and the packing material pending completion of inspection by the carrier. Where applicable, the following actions shall be taken in checking and documenting delivery conditions:

(a) When a shipment is received in a closed conveyance, a notation shall be made on the carrier's delivery receipt or freight bill and on the consignee's copy of the delivery receipt or freight bill of the number and condition of any seals; i.e., intact, broken, or missing, on the carrier's conveyance and whether the shipment was properly loaded, stowed, blocked, and braced.

(b) On shipments other than in bulk, the number of pieces or packages in the shipment shall be physically counted and recorded by means of a stroke tally or other appropriate method.

(c) A notation shall be made on the carrier's delivery receipt, if available, and the consignee's copy of the delivery receipt or freight bill of the condition of the railcar, motor vehicle, container, or other conveyance with particular attention to any circumstance that might contribute to loss or damage; e.g., loose flooring or sides or protruding nails or bolts. When there is suspicion or evidence of damage to an ocean shipment, the ocean carrier or his agent shall be requested to furnish details concerning the manner of stowage of the shipment aboard the vessel.

(d) If a shipment is received in apparent bad order; e.g., if the load is shifted or jumbled or containers are broken or leaking, photographs of the damaged freight and/or of conditions of loading which might have contributed to the damage shall be made, whenever possible, for use as documentary evidence in the event of a claim. Each photograph shall be marked indelibly with the Government or commercial bill of lading number, the ocean or international air bill of lading number and/or the carrier's delivery receipt number, the vehicle identification number or vessel's name, and the date the photograph was taken. Photographs of damaged shipments delivered by ocean carriers shall be made at the ocean carrier's terminal prior to accepting the shipment.

[38 FR 28679, Oct. 16, 1973, as amended at 42 FR 25859, May 20, 1977]

§ 101-40.702 Documenting and reporting discrepancies.

[42 FR 25859, May 20, 1977]

§ 101-40.702-1 Exception on carrier's delivery receipt.

(a) Before signing the carrier's delivery receipt, the Government consignee (or representative) shall note on the receipt specific details regarding the nature and extent of all apparent overages, shortages, losses, damages, or other discrepancies between the quantity and condition of the property as received and as shown on the covering bill of lading or other transportation document. Any notation placed on the carrier's delivery receipt shall also be shown on the consignee's copy of the delivery receipt or freight bill. The consignee shall sign and date these notations and request the carrier's driver or representative also to sign the notations.

(b) In the instance of an ocean shipment, placing an exception on the carrier's delivery receipt is not necessary if the condition of the shipment has been the subject of a joint survey or inspection; that is, if representatives of the carrier and the consignee jointly surveyed or inspected the shipment while it was still in the possession of the carrier, and a copy of the joint report signed by both representatives is in the possession of the consignee (46 U.S.C. 1303 (6)).

[38 FR 28679, Oct. 16, 1973, as amended at 42 FR 25859, May 20, 1977]

§ 101-40.702-2 Discrepancies in Government bill of lading shipments.

(a) When a shipment is made on a Standard Form 1103, U.S. Government Bill of Lading, or a Standard Form 1131, U.S. Government Transit Bill of Lading, the consignee shall make certain the Government bill of lading number is shown on both the carrier's delivery receipt and the consignee's copy of the delivery receipt. When a shipment is made on a commercial bill of lading to be converted to a Government bill of lading, in which case the Government bill of lading number would not normally be known at the time of delivery, the consignee shall sign the delivery receipt and enter the Government bill of lading number, when it becomes available, on the consignee's copy of the delivery receipt.

(b) When a discrepancy occurs in a shipment made on a Government bill of lading, appropriate notations shall be made on the delivery receipt as required in § 101-40.702-1 and a discrepancy report shall be prepared as required in § 101-40.702-3.

(c) The agency responsible for payment of freight charges, as identified in the "Charges to be billed to' space on the Government bill of lading, is usually also responsible for determining carrier liability (see § 101-40.707-2) and processing claims (see § 101-40.710). The consignee shall forward a discrepancy report and copies of supporting documents; e.g., delivery receipts, photographs, and carrier's inspection reports, to that agency, to the shipper at the address shown on the Government bill of lading, and to any other addresses as may be required by the agency's regulations. In addition, copies of discrepancy reports and supporting documents relating to special categories of property shall be forwarded to appropriate offices as required in § 101-40.702-3 (c), (d), and (e).

[42 FR 25859, May 20, 1977]

§ 101-40.702-3 Preparation of a discrepancy report.

(a) Government agencies are authorized, but not required, to observe a minimum of $25 in processing loss and damage claims against carriers or forwarders and to absorb losses of $25 or less.

(b) When the total value of the loss, damage, or other discrepancy, or the value of repairs or replacement, including unearned freight charges, where applicable, on a single bill of lading or other transportation document exceeds $25, the receiving activity shall prepare a written discrepancy report as soon as possible, but no later than 30 calendar days after receipt of the shipment or discovery of the discrepancy. Every effort shall be made to reconcile overages or shortages within 10 workdays after discovery.

(Suspected pilferage, theft, or loss during transit of narcotics, hazardous articles, or sensitive materials, regardless of dollar value, shall be reported to the appropriate agencies within 24 hours in accordance with paragraphs (c), (d), and (e), of this section.) Any photographs taken as documentary evidence (see § 101-40.701 (d)) should be attached to the discrepancy report to support claim action. Standard Form 361, Discrepancy in Shipment Report (see § 101-40.4906-3), or Standard Form 363, Discrepancy in Shipment Confirmation (see § 101-40.4906-6), may be used by executive agencies for this purpose. Guidelines for the preparation of these Standard forms are in §§ 101-40.4906-4 and 101-40.4906-7, respectively. (See the GSA handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings (Subpart 101-26.8), for specific requirements for reporting discrepancies in shipments from GSA or DOD.) Losses of $25 or less for which no claims have been filed shall be absorbed by Government agencies.

(c) Pilferage, theft, or loss, regardless of dollar value, occurring in a shipment of narcotics or other controlled substances (as identified in 21 CFR 1308.11-1308.15) shall be reported by telephone within 24 hours after discovery to both the agency or activity responsible for the shipment and the appropriate regional office of the Drug Enforcement Administration, Department of Justice. In addition, a written discrepancy report shall be prepared and distributed immediately, and a copy shall be forwarded to the same office of the Drug Enforcement Administration to which the telephone report is made.

(d) Pilferage, theft, or loss, regardless of dollar value, occuring in a shipment of ammunition, explosives, or other hazardous articles (as identified in 49 CFR Part 172) shall be reported by telephone within 24 hours after discovery to both the agency or activity responsible for the shipment and to the Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590. In addition, a written discrepancy report shall be prepared and distributed immediately, and a copy shall be forwarded to the Materials Transportation Bureau.

(e) Pilferage, theft, or loss, regardless of dollar value, occurring in a shipment of (1) security classified material, (2) protected (sensitive) material; e.g., small arms, which are highly pilferable and have a ready use during civil disturbances or a sale potential in illicit markets, or (3) protected (controlled) material; e.g., money, negotiable instruments, precious metals, or alcoholic beverages, shall be reported by telephone within 24 hours after discovery to the agency responsible for the shipment. In addition, a written discrepancy report shall be prepared and distributed immediately.

[42 FR 25859, May 20, 1977, as amended at 43 FR 24063, June 2, 1978]

§ 101-40.703 Notification of carrier.

§ 101-40.703-1 [Reserved]

§ 101-40.703-2 Notice of visible loss, damage, or shortage.

(a) Usually, it is sufficient to notify the last line-haul or delivering carrier of a shipment discrepancy by annotating the carrier's delivery receipt. This notation shall also be entered on the consignee's copy of the delivery receipt. When the entire shipment is lost, the consignee shall notify the origin carrier. When the carrier's delivery receipt is not available at the time of delivery of the shipment, notification shall be made within 24 hours by telephone to the nearest office of the delivering carrier to provide the carrier an opportunity, if desired, to verify the loss, damage, or shortage. In every instance of loss, damage, or shortage, the delivering carrier shall be notified in writing within 5 workdays of receipt of the shipment and invited to perform an inspection, except in those instances where it is known that the total amount of the loss, damage, or shortage, or the value of repairs or replacement, including unearned freight charges, where applicable, on a single bill of lading or other transportation document, does not exceed $25. If the carrier waives the opportunity to perform an inspection, the responsible Government employee receiving the shipment shall make a written record of the waiver, including the date the request for inspection was made and the name of the carrier representative who was contacted and waived inspection. Use of Standard Form 363 is recommended to request an inspection by the carrier. In the instance of an international shipment by an ocean or air carrier, the notice of discrepancy must be made in writing before the property is removed from the carrier's possession, except as provided in § 101-40.702-1(b).

(b) If the damaged property is of a perishable nature or is in such a condition as to be potentially injurious to life, health, or property, prompt notification to the carrier shall be made by telephone and confirmed in writing. If the carrier fails to perform a timely inspection and to participate in the disposition proceedings, necessary steps shall be taken to dispose of the property in a manner which will mitigate the loss to the carrier and avoid injury to other property or persons.

(c) In the instance of a domestic shipment, if the lost or damaged shipment involves nonperishable material, the property shall be held for a reasonable time (usually 5 workdays after notification) to allow the carrier time to complete inspection.

[42 FR 25860, May 20, 1977]

§ 101-40.703-3 Notice of concealed loss, damage, or shortage.

(a) *Domestic shipments.* When loss, damage, or shortage that was not apparent at the time of delivery is subsequently discovered when the packages are opened, the delivering carrier (not a drayage or switching carrier) shall be notified promptly by telephone and requested to inspect the property involved, except in those instances where it is known that the total amount of loss, damage, or shortage, or the value of repairs or replacement, including unearned freight charges, where applicable, on a single bill of lading or other transportation document, does not exceed $25. Unless there are extenuating circumstances, the notification and request for inspection shall be made by telephone not later than 15 calendar days from the date of receipt of the shipment, followed by written confirmation. The written notification shall include the date the telephone request for inspection was made and the name of the carrier representative who was contacted. A copy of the notification and request for inspection shall be retained for possible claim purposes. Use of Standard Form 363 is recommended for this purpose. Wrappings, packing materials, and any unopened packages shall be retained for the carrier's inspection. A copy of the carrier's inspection report shall be requested for use in determining liability or preparing a claim. If the carrier fails to make an inspection within a reasonable time as stated in § 101-40.703-2(c), or if the carrier waives the opportunity to perform an inspection, the carrier shall be requested in writing to furnish a written waiver. Use of Standard Form 363 is recommended for this purpose.

(b) *International shipments.* When loss, damage, or shortage that was not apparent at the time of removal of the property from the carrier's possession is subsequently discovered when the packages are opened, the carrier shall be notified promptly in writing. Use of Standard Form 363 is recommended for this purpose. When an ocean carrier is involved, the written notice shall be given to the carrier or his agent at the port of discharge within 3 calendar days of delivery (46 U.S.C. 1303(6)). When an international air carrier is involved, the written notice shall be given within 7 calendar days of receipt of the property (Article 26 of the Warsaw Convention; 49 Stat. 3020). Written notices to ocean and international air carriers shall indicate a nominal period of time for inspecting concealed loss or damage.

[42 FR 25860, May 20, 1977]

§ 101-40.704 Disposition of damaged property.

§ 101-40.704-1 Transportation for account of the Government.

(a) *Repair and utilization.* Where damaged property can be repaired economically and satisfactorily, arrangements shall be made by the Government agency paying the transportation charges, or its authorized representative, to have the repairs effected and to claim against the carrier for the costs thereof. Alternatively, the carrier may be allowed to perform the repairs or make the necessary arrangements therefor, subject to inspection and acceptance by Government agency inspectors or other designated representatives. However, in no case shall property subject to security regulations be released to the carrier or to any unauthorized personnel for repair.

(b) *Allowance for damage.* When the agency finds it not desirable or feasible to make repairs immediately, and the carrier does not make repairs, the amount of damage or the cost of making repairs in the future may be determined by appropriate means (e.g., by mutual agreement of representatives of the carrier and the Government or by estimates obtained from qualified and disinterested parties).

(c) *Rejection.* (1) Property may be rejected to the carrier and claim made for its full value only when it has been damaged to the extent that it has no salvage value or it is not economically repairable; that is, the cost of repairs would exceed the appraised value of the repaired item (see exception in paragraph (c)(3) of this section).

(2) When it is determined that property has been damaged to the extent that it has no salvage value or is not economically repairable, and that it can be abandoned, the carrier shall be notified promptly of the location of the rejected property and shall be requested to make appropriate disposition of it.

(i) If the carrier refuses to accept the rejected property, he shall be requested, in writing, to furnish a written statement of his reason for refusal to accept. Upon receipt of the written refusal, the agency shall take appropriate action to dispose of the rejected property; or

(ii) If the carrier fails to make appropriate disposition of the rejected property within a reasonable length of time, the agency shall notify the carrier, in writing, that the property will be disposed of by the agency without further delay.

(3) Property which is designated Top Secret, Secret, or Confidential, or property which, for any reason, cannot be abandoned in the best interests of the Government, shall not be rejected to the carrier, regardless of the extent of damage.

§ 101-40.704-2 Transportation for account of the supplier.

When the transportation is performed by the carrier for the supplier rather than for the Government; e.g., when property is purchased f.o.b. destination, accurate notations of discrepancies shall be made on the carrier's delivery receipt and the consignee's copy of the carrier's delivery receipt or freight bill to assist the supplier in filing claims for transportation losses. Prompt notification shall be furnished to the supplier, or to the agency contracting officer as individual agency regulations may provide, with a request for information regarding the disposition of the damaged property. Standard Form 363 is recommended for this purpose. The notification shall include supporting documents; i.e., a copy of the annotated delivery receipt, photos, carrier's inspection report, or written waiver. (See the GSA handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings (Subpart 101-26.8), with regard to damage to stock or nonstock items procured from GSA for direct delivery.)

[42 FR 25860, May 20, 1977]

§ 101-40.705 Disposition of overages and astray or misconsigned shipments.

(a) When the number of packages offered for delivery is more than that shown on the applicable bill of lading or other transportation document and when all packages are marked for the consignee, the overages shall be accepted. The consignee shall attempt to reconcile overages and astray freight with corresponding shortages associated with other shipments received at that activity.

(b) If excess freight on one bill of lading is identical with a reported shortage on another bill of lading, the excess or overage shall be used to offset the previous shortage. If excess freight cannot be identified or used to offset other shortages within 5 workdays after the date of discovery, the consignee shall request disposition instructions from the consignor or shipper and shall convey these instructions to the delivering carrier. Standard Form 363 is recommended for these purposes.

(c) If a carrier attempts to deliver a shipment containing packages which are marked for another consignee or which cannot otherwise be identified, the misdirected or astray packages shall not be accepted.

[42 FR 25860, May 20, 1977]

§ 101-40.706 [Reserved]

§ 101-40.707 Determining liability for discrepancies.

§ 101-40.707-1 Transportation for account of the supplier.

When the transportation is performed by the carrier for the supplier rather than for the Government; e.g., when the property is purchased f.o.b. destination, determination of liability for discrepancies in shipment will be resolved between the carrier and the supplier. However, in such instances the Government receiving activity shall make accurate notations of discrepancies on the carrier's delivery receipt and the consignee's copy of the delivery receipt or freight bill, and shall furnish a report of the discrepancies to the supplier, or to the agency contracting officer as individual agency regulations may provide, to assist the supplier in resolving the discrepancies. Standard Form 363 is recommended for this purpose. The report shall include supporting documents; i.e., a copy of the annotated delivery receipt, photos, inspection report, or written waiver.

[42 FR 25861, May 20, 1977]

§ 101-40.707-2 Transportation for account of the Government.

Determination of liability for discrepancies shall be the responsibility of the Government agency paying the transportation charges (a) in all instances where a shipment is made on a Government bill of lading, commercial bill of lading to be converted to a Government bill of lading, commercial bill of lading bearing a notation that charges will be borne by the U.S. Government, commercial bill of lading under commercial forms and procedures for small shipments (see § 101-41.304-2), or purchase order for local drayage, and (b) in other instances where the Government assumes the risk for loss and damage at origin; e.g., when property is purchased f.o.b. origin, freight prepaid. While no precise formula can be prescribed for agencies to follow in determining whether liability for loss and damage rests with the carrier, the shipper, or a third party, an analysis shall be made of all the pertinent factors and circumstances involved, including, when appropriate, consideration of the following:

(1) Type and adequacy of the packing and packaging.

(2) Adequacy of marking, including precautionary markings for fragile or dangerous cargo.

(3) Condition of the package, including any indications of rough handling or pilferage.

(4) In case of load lots:

(i) Condition of the vehicle, whether dirty, contaminated, unsafe, structurally defective, appropriate type, etc.;

(ii) Identification and condition of seals on conveyances and by whom applied;

(iii) Manner of loading, stowing, blocking, and bracing; and

(iv) Determination as to whether loading was performed by shipper or carrier.

(5) Tally records and how compiled.

(6) Photographic evidence.

(7) Expert or professional appraisals.

[32 FR 8965, June 23, 1967, as amended at 42 FR 25861, May 20, 1977]

§ 101-40.708 [Reserved]

§ 101-40.709 Time limitations.

Government agencies shall take prompt action to recover amounts due the United States as a result of discrepancies in delivery, in accordance with time limitations established by the bill of lading or other contracts of carriage, or by statute. The following are examples of such time limitations:

(a) *Commercial bills of lading.* Claims for loss or damage to domestic shipments moving on commercial bills of lading shall be filed with carriers within 9 months following delivery of the shipment or, in the case of nondeliveries, within 9 months following the time when delivery should have been made.

(b) *Government bills of lading.* Loss, damage, or shortage claims for shipments made on Government bills of lading, commercial bills of lading to be converted to Government bills of lading, or commercial bills of lading bearing a notation that the shipment is subject to the terms and conditions of Government bills of lading, are exempt from the commercial bill of lading requirement for filing claims within 9 months following the delivery of the shipment. (See § 101-41.302-3(g) for exemption authority.) Nevertheless, every effort shall be exerted to effect prompt settlement of claims in this category.

(c) *Ocean bills of lading.* A 1-year limitation is imposed by statute (46 U.S.C. 1301, 1303(6)) for bringing court actions against ocean carriers for loss and damage.

(d) *International air shipments.* A 2-year limitation is imposed by Article 29 of the Warsaw Convention (49 Stat. 3000) for bringing court actions against air carriers for loss or damage to international air shipments.

[32 FR 8965, June 23, 1967, as amended at 42 FR 25861, May 20, 1977]

§ 101-40.710 Processing claims against carriers.

When the transportation is for the account of the Government (see § 101-40.707-2), and when it is determined that the carrier is responsible for loss and/or damage to a shipment, a claim shall be prepared on Standard Form 362, U.S. Government Freight Loss/Damage Claim (see § 101-40.4906-5), and forwarded to the appropriate carrier in duplicate with the necessary supporting documents; e.g., delivery receipts, photographs, inspection report, except as otherwise provided in § 101-40.711. (See 49 CFR Part 1005 for additional regulations concerning processing of claims against carriers subject to the Interstate Commerce Act and 49 CFR 1056.17 (a) and (b) for acknowledgment and disposition of claims against motor common carriers of household goods.) The appropriate carrier against whom the claim shall be filed is (a) usually the destination line-haul carrier (not the drayage company or switching carrier performing the delivery service for the destination line-haul carrier) in instances of domestic shipments made on a Standard Form 1103, U.S. Government Bill of Lading, a Standard Form 1131, U.S. Government Transit Bill of Lading, or a commercial bill of lading converted to a Government bill of lading, or (b) usually the origin carrier in instances of ocean or international air shipments. When it is conclusively known on which carrier's line the loss or damage occurred, the claim may be filed against that carrier. When no part of the shipment has been delivered, the claim would normally be filed against the origin carrier which accepted the shipment. Under Interstate Commerce Commission regulations, carriers are required to acknowledge receipt of a formal claim to the claimant in writing within 30 days after receipt.

[42 FR 25861, May 20, 1977]

§ 101-40.711 Collection of claims.

§ 101-40.711-1 Claims against domestic carriers.

Formal claims (Standard Form 362 with supporting documents) for amounts exceeding $25 on a single bill of lading or other transportation document shall be filed with rail carriers, motor carriers, inland water carriers, domestic forwarders, and other carriers subject to the Interstate Commerce Act. Carriers shall be allowed 120 calendar days (plus a reasonable period of additional time if requested by the carrier in writing) to respond with payment of a claim or evidence of nonliability before action is taken to collect the claim by setoff; i.e., the withholding of payments from amounts otherwise due and payable to carriers for transportation and related services. Earlier collection by setoff may be made if it is known that the carrier is involved in a bankruptcy, insolvency, or reorganization proceeding, and it is clearly in the Government's interest to do so (4 CFR Parts 102 to 104).

[42 FR 25861, May 20, 1977]

§ 101-40.711-2 Claims against ocean and international air carriers.

Regulations of the General Accounting Office (5 GAO 5040.21) require that:

(a) When a loss or damage for which the carrier is administratively determined to be liable has occurred in an ocean or international air shipment, effort should be made to withhold an amount sufficient to reimburse the Government for the loss or damage from the carrier's bill covering the charges for the transportation or related services on the same shipment. If this is not possible, the withholding should be made from a payment due the carrier on an unrelated account. Notice to the carrier of withholding should request the carrier's consent to such action.

(b) If the carrier does not consent to the withholding action prescribed in paragraph (a) of this section, or if the claim is not otherwise compromised or withdrawn in accordance with 4 CFR Part 103 or 104, referral of the matter shall be made to the Department of Justice for consideration of the need for suit to reduce the Government's claim to judgment. The referral shall be made at least 90 calendar days prior to the expiration of the 1-year period for bringing suit against ocean carriers (46 U.S.C. 1303(6)) or the 2-year period for bringing suit against international air carriers (Article 29 of the Warsaw Convention; 49 Stat. 3021).

[38 FR 28680, Oct. 16, 1973, as amended at 42 FR 25861, May 20, 1977]

§ 101-40.712 Referral of loss and damage claims to the General Accounting Office or to the Department of Justice.

Loss and damage claims which cannot be collected, compromised, or terminated in accordance with 4 CFR Parts 102 to 104 shall be determined uncollectable and reported to the General Accounting Office or the Department of Justice for appropriate action under criteria established by GAO.

[42 FR 25861, May 20, 1977]

§ 101-40.713 Clearing carriers of liability.

When it is determined as the result of investigation or evidence submitted by a carrier that loss or damage to a Government shipment is not the responsibility of the carrier, the consignee shall take necessary steps to clear the carrier of liability and to withdraw or amend any claim which may have been filed for recovery of losses. In this regard, the consignee shall prepare a document which will effectively remove or amend any exception that had been noted on the carrier's delivery documents. While no precise form or format is prescribed, this document shall be prepared in sufficient detail to identify the shipment and to show the basis for relieving the carrier of liability. This includes (a) a reference to the Government bill of lading number or other transportation document; (b) a detailed description of the property shipped; (c) a reference to the exception taken to the quantity or condition of the property delivered; (d) the number and date of any claim which has been filed with the carrier; and (e) the basis on which the exception or claim is being withdrawn. The consignee shall forward the original of this document to the carrier against whom the claim has been filed (or, in case the claim has not yet been filed, to the carrier that is billing for transportation charges or related services), and a copy shall be attached to the blue memorandum copy (Memorandum Copy-Consignee) of the bill of lading. In addition, the consignee shall send copies of the document to other offices involved in the initial claim action. (See the GSA handbook, Discrepancies or Deficiencies in GSA or DOD Shipments, Material, or Billings (Subpart 101-26.8), for reports required in connection with shipments from GSA or DOD.)

[42 FR 25861, May 20, 1977]

Subparts 101-40.8—101-40.48 [Reserved]

Subpart 101-40.49—Forms, Formats, and Agreements

SOURCE: 29 FR 16008, Dec. 1, 1964, unless otherwise noted.

§ 101-40.4900 Scope of subpart.

This subpart contains forms, formats, and agreements to be used in implementing the provisions of this Part 101-40. These forms and formats are designed to provide uniform methods of requesting and transmitting transportation advice and assistance, and uniform documentation of transactions between Government agencies and between Government and the transportation industry and related industries. The agreements reproduced in this Subpart 101-40.49 are intended as a ready source of reference to agreements existing between the Government and the transportation industry and related industries.

§ 101-40.4901 GSA forms.

(a) The GSA forms in this Subpart 101-40.49 are for optional use by executive agencies. Their use, however, is recommended in the interest of efficiency and economy in Government operations.

(b) Agency field offices should submit requirements to their Washington headquarters office which will forward consolidated annual requirements to the General Services Administration, (BRAF), Washington, D.C. 20405.

[29 FR 16008, Dec. 1, 1964, as amended at 38 FR 28681, Oct. 16, 1973]

§ 101-40.4902 Standard forms.

The Standard forms illustrated in this Subpart 101-40.49 may be obtained by submitting a requisition in FEDSTRIP format to the GSA regional office providing support to the requesting activity.

[43 FR 24063, June 2, 1978]

§ 101-40.4903 Formats.

(a) The formats in this Subpart 101-40.49 are for optional use by executive agencies. Their use, however, is recommended in the interest of uniformity in documentation of Government transactions.

(b) Supplies of formats illustrated in this Subpart 101-40.49 are not available to either executive agencies or the public. Such formats may be duplicated in whatever quantities and by whatever methods desired without prior permission of GSA.

§§ 101-40.4904—101-40.4905 [Reserved]

§ 101-40.4906 Illustrations.

NOTE: Forms filed as part of the original document. Copies may be obtained from Central Office, GSA.

§ 101-40.4906-1 GSA Form 420, Freight Rate and Route Request/Response.

NOTE: The form illustrated in § 101-40.4906-1 is filed as part of the original document and does not appear in this volume.

[45 FR 85762, Dec. 30, 1980]

§ 101-40.4906-2 Optional Form 280, Uniform Tender of Rates and/or Charges for Transportation Services.

NOTE: The form illustrated in § 101-40.4906-2 is filed as part of the original document and does not appear in this volume.

[45 FR 85762, Dec. 30, 1980]

§ 101-40.4906-3 Standard Form 361, Discrepancy in Shipment Report.

NOTE: The form illustrated in § 101-40.4906-3 is filed as part of the original document and does not appear in this volume.

[45 FR 85762, Dec. 30, 1980]

§ 101-40.4906-4 Guidelines for preparation of Standard Form 361, Discrepancy in Shipment Report (Short Title "DISREP") (Rev. 11-79).

(a) Page 1 of guidelines for Preparation of Standard Form 361.

SECTION A

General

a. The November 1979 edition of Standard Form 361, Discrepancy in Shipment Report (DISREP) requires the use of codes for certain information. A stub attached to the top of the form provides instructions concerning where to locate these codes for civilian agencies and the Department of Defense. The codes furnished in this section are uniform codes for civilian agencies to use in preparing the DISREP.

b. The DISREP is a two page form, but, when used by civilian agencies, the back requires completion only when the spaces in items 12 and 13 do not provide adequate space to fully describe the discrepancies being reported. Items 19 and 20 are primarily for use by the Department of Defense.

Item Details. The following are detailed instructions of the data required in completing the DISREP:

Item Number, Title and Data Entry

1. *Date.*—Date on which report is prepared in the sequence of: year, month and day; e.g., November 6, 1979, would be entered as 79 Nov. 6.
2. *File Reference.*—Activity address code (if assigned) of reporting activity and a 4-digit number (0001-9999) for each DISREP issued within the calendar year.
3. *To.*—Name, address, activity address code (if assigned) and ZIP code of activity which is to receive the original of the report.
4. *Reporting Activity.*—Name, address, activity code (if assigned) and ZIP code of reporting activity.
5. *Consignor.*—Name, address, activity address code (if assigned) and ZIP code of activity making or directing the shipment. When shipper is a contractor or vendor always enter name and activity address code (if assigned) of the Government office responsible for documenting or arranging for shipment.
6. *Consignee.*—Name, address, activity address code (if assigned) and ZIP code of activity scheduled to receive the shipment. If same as item 4, enter "same as item 4".
7. *Shipper (if other than consignor).*—Name, address, activity address code (if assigned) and ZIP code of the activity physically making shipment for the account of the consignor shown in item 5. When a container shipment, enter name of activity stuffing the container in item 13.
8. *Point of origin (city and state).*—Enter city and state where carrier accepted shipment.
9. *Identification (conveyance/voyage number) and carrier routing.*—Enter identification number of railcar, truck, trailer, or name of vessel, as appropriate and routing shown on covering transportation document. Enter MILVAN, SEAVAN or CONEX type code in parentheses and trailer/container number and SEAVAN carrier. Enter TCN number of SEAVAN, MILVAN or CONEX or other consolidation container, and, when known, the voyage number.
10. *Destination (city and state).*—Enter city and state of destination as shown on covering transportation document.
11. Documentation Data:
    a. *Carrier's pro/freight bill number.*—Enter number appearing on carrier's delivery receipt (waybill, pro, freight bill, lading, warrant or similar document).
    b. *Bill of lading number.*—Enter document number under appropriate heading. Enter port of exit with an ocean bill of lading number.
    c. *Exception noted on carrier's delivery receipt.*—Check "yes" or "no" as appropriate.
    d. *Type of shipment code.*—Enter alpha or numeric code as listed in section B to designate whether rail, carload; motor, truckload, etc., as appropriate.
    e. *Documents attached.*—Check applicable block(s).
    f. *Date carrier signed for shipment.*—Enter actual date carrier signed for shipment.
    g. *Date consignee received shipment.*—Enter actual date consignee received shipment.
    h. *Date discrepancy discovered.*—Enter actual date discrepancy was discovered.
    i. *Date carrier notified.*—Enter date carrier was first notified of discrepancy i.e., by phone, in person or by SF 363.
    j. *This is a survey document.*—Check "yes" or "no" as applicable (primarily used by military activities).
    k. *Seal numbers and condition.*—Check appropriate block to indicate condition of seals at delivery. Enter seal numbers. Explain when there is a variance between seal numbers shown on transportation documentation and numbers of seals on vehicles. Explanation may be continued in item 13.
    l. *Inspection date.*—Check appropriate block. Attach document(s) as required, when reporting damage, pilferage or partial loss.
    m. *Disposition date.*—Check appropriate block and attach document(s) as required.
12. Discrepancy Data (When necessary, multiple lines may be used for each requisition line item involved):
    (a) *Acquisition document and/or transportation control number.*—Enter applicable acquisition document number e.g., requisition or purchase request and/or transportation control number.
    (b) *Commodity Description and/or National Stock Number (NSN).*—Enter noun description of commodity and/or National Stock Number.
    (c) *Type of pack.*—Enter the 2 position code from section C to describe type of pack for shipment involved. (Codes applicable for CONEX, SEAVAN,

MILVAN or other consolidation container will be entered in item 9 only.)

(d) *Quantity discrepant (pieces).*—Enter actual number of pieces of freight that are discrepant as evidenced by the covering bill of lading or governing transportation document.

(e) *Type and cause code.*—Enter the 2 position code as shown in section D that most closely identifies the cause or type of discrepancy.

Issue Data (May be obtained from packing list or authorized shipping document accompanying the shipment i.e, GSA or DD Form 1348-1, direct delivery purchase document, etc.)

(f) *Unit of issue.*—Enter the 2 letter abbreviation for type of unit under which material was issued.

(g) *Units billed/shipped.*—Enter actual number of units of issue billed (invoiced) or shipped as evidenced by the applicable shipping document.

(h) *Discrepant units.*—Enter actual number of units discrepant.

(i) *Discrepant weight.*—Enter weight of discrepant quantity.

(j) *Value or cost of repairs.*—Enter acutal value of loss sustained, cost of repairs and/or cost to rea?oper (materials and labor), as appropriate. Enter value of material when reporting over/astray freight.

13. *Remarks.* This item is for use in providing detailed information or other data required by items referencing this item. Information should specify facts and not personal opinions unless substantiated by documentation, e.g., affidavits or certified statements. Other discrepancies or deficiencies in transportation such as improper loading, stowing, handling, blocking, bracing, lashing, excessive transit time, improper placarding or labeling of hazardous materials, etc., should be described in this item. When the discrepancy involves classified material, enter the applicable acquisition document or transportation control number and the appropriate security classification code, e.g., "S" (secret), "C" (confidential).

14. *Responsibility.* The transportation or appropriate receiving personnel normally would make this determination based on findings and factual evidence available and check the appropriate block. If sufficient evidence to make such a determination is not available, check "other" and specify appropriate activity.

15. *Distribution of Copies.* Enter name and address of office(s) to receive copies as directed by agency regulations.

16. *Prepared by*

a. *Typed name, title and telephone extension.* Type name, title and commercial telephone number of the person whose signature is entered in item 16b.

b. *Signature.* Signature of person preparing this report.

17. *Discrepancy Data (continuation of item 12).* This item is a continuation of items 12a thru 12J, if required.

18. *Remarks.* (Continuation of item 13). This item is a continuation of item 13, if required.

19. *Action for Reviewing Officials.* Sections a, b, c and d under this item are for use in connection with inventory and financial adjustments of accounts in accordance with indiviudal service/agency regulations. Section e will be completed by an official authorized to approve the report for use as a survey document and/or inventory and financial adjustment of accounts or when individual agency or service regulations require approval by an official other than the individual shown in item 16A.

20. *Action by Finance Center.* For use by finance center, as required (primarily for DOD).

SECTION B

Code	Type of Shipment Code (Item 11d)
A	Motor, truckload
B	Motor, less than truckload
C	Van (unpacked, uncrated personal or Government property)
D	Driveaway, truckaway, towaway
E	Bus
F	Military Airlift Command (MAC)
G	Parcel post, surface
H	Parcel post, air
I	Government trucks, for shipment outside local delivery area
J	Small package carrier
K	Rail, carload*
L	Rail, less than carload*
M	Freight forwarder
N	LOGAIR (commercial air charter service—Air Force controlled)
O	Organic military air

SECTION B—Continued

Code	Type of Shipment Code (Item 11d)
P	Through Government bill of lading (TGBL)
Q	Air freight, air express, air charter (commercial)
R	Expedited air freight
S	Reserved
T	Air freight forwarder
U	Quicktrans (commercial air charter service—Navy controlled)
V	SEAVAN
W	Water, river, lake coastal (commercial)
X	Reserved
Y	Intratheater airlift service
Z	MSC (Military Sealift command—controlled contract or arranged space)
2	Government watercraft, barge lighter
3	RORO (roll-on, roll-off)
4	ARFCOS (Armed Forces Courier Service)
5	United Parcel Service
6	Military official mail (MOM)
7	Weapon System Pouch Service
8	Pipeline
9	Local delivery, by Government or commercial truck including deliveries between air or water terminals and adjacent activities. Within CONUS, the local delivery area is defined in tariffs governing local application of carrier service as filed with regulatory authorities.

*Includes trailer/container-on-flat-car (excluding SEAVAN).

SECTION C

Code	Type of Pack Code (Item 12c or 17c)
BD	Bundle
BE	Bale
BG	Bag, burlap or cloth
BL	Barrel
BS	Basket
BX	Box
CA	Cabinet
CB	Carboy
CC	Household goods containers, wood, type II (Fed. Spec. PPP-B-580)
CL	Coil
CN	Can
CO	Container, other than CU, CW or X
CR	Crate
CS	Case
CT	Carton
CU	Container, Navy cargo, transporter
CW	Container, commercial highway lift (PTTC)
CY	Cylinder
DB	Dufflebag
DR	Drum
EC	Engine container
ED	Engine cradle or dolly
FK	Footlocker
HA	Hamper
KE	Keg
LS	Loose (not packaged)
MN	Multiwall container (formerly referred to as triple wall or triwall secured or attached to pallet)
MX	Mixed (more than one type of shipping container)

SECTION C—Continued

Code	Type of Pack Code (Item 12c or 17c)
PC	Piece
PL	Pail
PT	Palletized unit load (other than code MW)
RL	Reel
RO	Roll
RT	Roll-on/roll-off trailer
SA	Sack, paper
SB	Skid box
SD	Skid
SH	Sheet
SL	Spool
SW	Suitcase
TB	Tub
TK	Trunk
TU	Tube
UX	Unitized (unitized cargo on roll-on/roll-off vehicles is considered roll-on/roll-off)
VE	Vehicle
VO	Vehicle in operating condition
VS	Sea-van-tote
WR	Wrapped
X	Container, CONEX (second position based on CONEX number, will be assigned as follows):
0	00000 to 99999
1	100000 to 199999
2	200000 to 299999
3	300000 to 399999
4	400000 to 499999
5	500000 to 599999
6	600000 to 699999
7	700000 to 799999
8	800000 to 899999
9	900000 to 999999

A-MSCVAN (MSC leased/controlled SEAVAN or MILVAN)
Y-MILVAN
Z-SEAVAN

(Second position identifies the loading data and loaded capacity as follows):

A Loaded to capacity by ocean carrier.

B Loaded to capacity by military terminal.

C Loaded to capacity by military shipping activity.

D Loaded to capacity by vendor/commercial supplier.

E Loaded to capacity by contract shipment consolidation facility.

F Loaded to less than capacity by military shipping activity, loading completed by contract shipment consolidation facility.

3 Loaded to less than capacity by military shipping activity.

4 Loaded to less than capacity by vendor/commercial supplier.

5 Loaded to less than capacity by contract shipment consolidation facility.

L Loaded to less than capacity by military shipping activity, loading completed by military terminal.

M Loaded to less than capacity by vendor/commerical supplier, loading completed by military terminal.

N Loaded to less than capacity by contract shipment consolidation facility, loading completed by military terminal.

T Loaded to less than capacity by military shipping activity, loading completed by ocean carrier.

U Loaded to less than capacity by vendor/commerical supplier, loading completed by ocean carrier.

V Loaded to less than capacity by contract shipment consolidation facility, loading completed by ocean carrier.

W Loaded to less than capacity by vendor/commercial supplier, loading completed by contract shipment consolidation facility.

Z Empty MILVAN or SEAVAN.

SECTION D

Code	Type and Cause Code (Item 12e or 17e)
	Astray
A3	Incomplete marking or missing label or tag
A4	Defaced or illegible marking
AA	Unknown
	Overage
05	Improper documentation
03	Incomplete marking or missing label or tag
04	Defaced or illegible marking
OK	Improper loading or stowing
OO	Unknown
	Shortage
SL	Leakage, spoilage, or evaporation
S5	Improper documentation
ST	Theft
SP	Pilferage
SI	Status "W" cargo (MMC terminal use only)
SK	Improper loading or stowing
SS	Unknown
	Damage
DF	Fire
DK	Improper loading, stowing, lashing, blocking and bracing
D6	Materials handling equipment
D1	Marine casualty
DG	Spoilage
DQ	Rough handling
D2	Stevedoring
DE	Water damage
DW	Wreck
DV	Vandalism
DZ	Concealed damage
DD	Unknown, visible or apparent damage
	Other
XB	Broken, missing, improper, or inadequate seals
XC	Carrier tariff or tender agreements, Government transportation regulations not observed on other than classified or protected material
XH	Excess transit time
X3	Incomplete marking or missing label or tag
X4	Defaced or illegible marking
XJ	Improper carrier handling, service or equipment
XK	Improper loading, stowing, lashing, blocking or bracing (when no actual damage is involved)
XM	Improper marking or labeling of dangerous or hazardous material
XN	Misconsignment
XR	Government transportation regulations, carrier tariff or tender agreements, not observed on classified or protected material
XX	Not specified above (describe in remarks)

[45 FR 85762, Dec. 30, 1980]

§ 101-40.4906-5 Standard Form 362, U.S. Government Freight Loss/Damage Claim.

(a) Page 1 of Standard Form 362.
(b) Page 2 of Standard Form 362.

NOTE: The form in § 101-40.4906-5 is filed as part of the original document. Copies may be obtained from the nearest General Services Administration supply depot.

[32 FR 8968, June 23, 1967, as amended at 42 FR 25862, May 20, 1977]

§ 101-40.4906-6 Standard Form 363, Discrepancy in Shipment Confirmation.

NOTE: The form and instructions are filed as part of the original document and do not appear in the FEDERAL REGISTER.

[38 FR 28681, Oct. 16, 1973]

§ 101-40.4906-7 Guidelines for preparation of Standard Form 363, Discrepancy in Shipment Confirmation.

NOTE: The form and instructions are filed as part of the original document and do not appear in the FEDERAL REGISTER.

[38 FR 28681, Oct. 16, 1973]

§ 101-40.4906-8 GSA Form 2485, Cost Comparison for Shipping Household Goods (commuted rate system versus actual expense method).

NOTE: The form illustrated in § 101-40.4906-8 is filed as part of the original document and does not appear in this volume.

[45 FR 85764, Dec. 30, 1980]

§ 101-40.4906-9 GSA Form 3080, Household Goods Shipment Report.

NOTE: The form illustrated in § 101-40.4906-8 is filed as part of the original document and does not appear in this volume.

[45 FR 85764, Dec. 30, 1980]

PART 101-41—TRANSPORTATION DOCUMENTATION AND AUDIT [1]

Sec.

101-41.000 Scope of part.
101-41.001 Applicability of part.
101-41.002 Definitions.
101-41.003 Exceptions to regulations.
101-41.004 Agency implementation.
101-41.005 Forms.

Subpart 101-41.1—General

101-41.100 Scope of subpart.

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[1] See Temporary Regulation G-45 in the appendix to Subchapter G for temporary changes to Part 101-41.

Sec.
101-41.101 Examination of payments, settlement of claims, and review of requirements.
101-41.102 GSA responsibilities and functions.

Subpart 101-41.2—Passenger Transportation Services Furnished for the Account of the United States

101-41.200 Scope and applicability of subpart.
101-41.201 [Reserved]
101-41.202 Standard forms relating to passenger transportation.
101-41.202-1 SF 1169, U.S. Government Transportation Request.
101-41.202-2 SF 1170, Redemption of Unused Tickets.
101-41.202-3 SF 1113, Public Voucher for Transportation Charges.
101-41.202-4 SF 1172, Certificate in Lieu of Lost U.S. Government Transportation Request.
101-41.202-5 Procurement of standard forms by agencies and carriers.
101-41.203 Procurement of passenger transportation services.
101-41.203-1 Procurement from carriers.
101-41.203-2 Use of cash.
101-41.203-3 Quantity (bulk) ticket purchases.
101-41.203-4 Reduced rate services.
101-41.203-5 Joint procurement of rail transportation and accommodations.
101-41.203-6 Air excess baggage service.
101-41.204 Contracts, tenders, and charters.
101-41.204-1 Contracts.
101-41.204-2 Tenders.
101-41.204-3 Procurement and billing of contract or tender service.
101-41.204-4 Procurement and billing of charter service.
101-41.205 Special procedures for preparing agency-stocked tickets for passenger transportation services.
101-41.205-1 Use of teletype ticketing equipment.
101-41.205-2 Use of preprinted rail ticket stock.
101-41.206 Special procedures for automatic payment of carrier charges for passenger transportation services.
101-41.207 Use, preparation, and disposition of GTR's (SF 1169).
101-41.207-1 Use of GTR's.
101-41.207-2 Preparation of GTR's.
101-41.207-3 Disposition of spoiled or canceled GTR's.
101-41.207-4 Accountability for GTR's.
101-41.208 Validation and honoring of GTR's.

Sec.
101-41.208-1 Validation of GTR's and identification of travelers.
101-41.208-2 GTR identification on tickets and coupons.
101-41.208-3 Honoring GTR's.
101-41.208-4 Issuance and use of sleeping or parlor car tickets when accommodations are not assigned.
101-41.208-5 En route honoring of GTR's for rail and sleeping or parlor car services.
101-41.208-6 En route honoring of GTR's for sleeping or parlor car services only.
101-41.208-7 Honoring of GTR's by bus drivers.
101-41.209 Unused transportation services or accommodations.
101-41.209-1 Reporting unfurnished or unused transportation services or accommodations.
101-41.209-2 Adjustments for unfurnished or unused transportation services or accommodations.
101-41.209-3 Cancellation of reservations.
101-41.209-4 Denied boarding compensation.
101-41.210 Unused transportation refund procedures.
101-41.210-1 SF 1170, Redemption of Unused Tickets.
101-41.210-2 Agency processing of SF 1170.
101-41.210-3 Carrier processing of SF 1170.
101-41.210-4 Agency processing of refunds.
101-41.210-5 Report of carrier failure to make refund for unused transportation services or accommodations.
101-41.210-6 Refund procedures covering unused transportation services billed by foreign-flag carriers.
101-41.211 Lost or stolen GTR's; lost Government excess baggage authorization/tickets (GEBAT).
101-41.211-1 Reporting of GTR's lost or stolen before presentation to carrier.
101-41.211-2 Disposition of recovered GTR's previously reported lost or stolen.
101-41.211-3 Billing charges for GTR's lost by carrier.
101-41.211-4 Disposition of GTR's previously certified lost by carrier.
101-41.211-5 Billing charges for air excess baggage coupons lost by carrier.
101-41.212 Accountability for lost or stolen tickets or coupons.
101-41.213 Carrier entries on GTR's.
101-41.214 Billing and payment of passenger transportation charges.
101-41.214-1 Carrier billing form.
101-41.214-2 Factual support of charges billed.
101-41.214-3 Carrier machine punching on GTR's.

Sec.
101-41.214-4 Carrier notations on GTR's.
101-41.214-5 Preparation of carrier billing form.
101-41.214-6 Submission of carrier bill with supporting data.
101-41.214-7 Cross-reference on billings for additional or supplemental services.

Subpart 101-41.3—Freight Transportation Services Furnished for the Account of the United States

101-41.300 Scope and applicability of subpart.
101-41.301 [Reserved]
101-41.302 Standard forms relating to shipment, transportation, and delivery of property.
101-41.302-1 Listing of forms.
101-41.302-2 Description and distribution of bills of lading.
101-41.302-3 Terms and conditions governing acceptance and use of GBL's.
101-41.302-4 General instructions for the preparation of GBL's and common problem areas.
101-41.302-5 Pickup, delivery, or trap-car services.
101-41.302-6 Special services.
101-41.303 Conversion of commercial bills of lading to GBL's.
101-41.303-1 Necessity for conversion.
101-41.303-2 Conversion of commercial bills of lading.
101-41.303-3 Lost commercial bills of lading.
101-41.303-4 Lost original commercial bills of lading subsequently recovered.
101-41.304 Exception to the use of GBL's.
101-41.304-1 Local storage, drayage, and haulage.
101-41.304-2 Limited authority to use commercial forms and procedures.
101-41.305 Procedures governing shipments accorded transit privileges.
101-41.305-1 General instructions for the preparation of transit GBL's and common problem areas.
101-41.305-2 Transit records; processing and distribution.
101-41.305-3 Free or surrendered transit GBL's.
101-41.305-4 Billing for transit shipments.
101-41.305-5 Paying office action on transit billings.
101-41.306 Disposition of GBL forms upon delivery of property to carrier for shipment.
101-41.307 Lost GBL's.
101-41.307-1 Substitute document.
101-41.307-2 Certification of substitute document.
101-41.307-3 Issuing office records.
101-41.307-4 Lost original GBL's recovered before settlement.

Sec.
101-41.307-5 Lost original GBL's recovered after settlement.
101-41.307-6 Lost GBL's and freight waybills (original).
101-41.308 Accountability for GBL's.
101-41.308-1 Agency control.
101-41.308-2 Disposition of unused GBL's.
101-41.309 Factual support of charges.
101-41.309-1 International shipments.
101-41.309-2 Motor carrier or freight forwarder destination storage in transit of household goods or mobile dwellings.
101-41.310 Billing and payment of freight and express transportation charges.
101-41.310-1 Carrier billing forms.
101-41.310-2 Preparation of carrier billing forms.
101-41.310-3 Separate billing for household goods shipments.
101-41.310-4 Presentation and payment of carrier's bills.
101-41.311 Reporting of carrier voluntary refunds.
101-41.312 Exception to usual billing and payment procedures.
101-41.313 Availability of forms.
101-41.313-1 GBL forms.
101-41.313-2 Carrier billing form.
101-41.314 Contracts and tenders.
101-41.314-1 Contracts.
101-41.314-2 Quotations and tenders.
101-41.314-3 Procurement and billing of services under contract or tender.

Subpart 101-41.4—Standards for the Payment of Charges for Transportation Services Furnished for the Account of the United States

101-41.400 Scope and applicability of subpart.
101-41.401 Payment upon presentation of bills.
101-41.402 Payment prior to Government confirmation of satisfactory service.
101-41.402-1 Joint standards for advance payment of charges for transportation services.
101-41.402-2 Limitations on advance payment of charges for transportation services.

Subpart 101-41.5—Claims by the United States Relating to Transportation Services

101-41.500 Scope and applicability of subpart.
101-41.501 Time limitations.
101-41.502 Examination of payments and initiation of collection action.
101-41.503 Protests to notices of overcharge.
101-41.504 Collection action by other means.
101-41.505 Deposit of collections resulting from transportation audit.

Sec.
101-41.506 Transportation debts administratively determined to be due the United States.

Subpart 101-41.6—Claims Against the United States Relating to Transportation Services

101-41.600 Scope and applicability of subpart.
101-41.601 Definition.
101-41.602 Statutory limitations on filing of claims.
101-41.603 Presentation of claims.
101-41.603-1 Filing requirement for claimants.
101-41.603-2 Form of claims.
101-41.603-3 Documentation required for claim settlements.
101-41.603-4 Where to file transportation claims.
101-41.604 Payment of transportation claims.
101-41.604-1 Transportation claims payable by agencies.
101-41.604-2 Transportation claims not payable by agencies.
101-41.605 GSA processing of direct settlement claims.
101-41.605-1 Acknowledgments.
101-41.605-2 Processing claims certified for payment.
101-41.605-3 Disallowed claims.
101-41.606 Effect of GSA claim settlements.
101-41.606-1 Finality of action.

Subpart 101-41.7—Reconsideration and Review of General Services Administration Transportation Claim Settlements

101-41.700 Protest to settlement action.
101-41.701 Review by the Comptroller General of the United States.

Subpart 101-41.8—Transportation Disbursement Procedures

101-41.800 Scope and applicability of subpart.
101-41.801 [Reserved]
101-41.802 Standard forms for scheduling transportation vouchers for payment.
101-41.803 Scheduling procedures.
101-41.803-1 Classification of basic transportation vouchers for purposes of separate scheduling.
101-41.804 Preparation of SF 1166, Voucher and Schedule of Payments.
101-41.804-1 Assignment of schedule numbers.
101-41.804-2 Listing of items on SF 1166.
101-41.804-3 Combining payments due a single payee.
101-41.804-4 Name and address space.
101-41.804-5 Amount column.
Sec.
101-41.804-6 Appropriation summary block.
101-41.805 Scheduling specific types of transportation vouchers.
101-41.805-1 No-check vouchers.
101-41.805-2 Deductions from disbursement vouchers.
101-41.805-3 Vouchers payable in foreign currency.
101-41.805-4 Certificate of settlement issue by the General Services Administration.
101-41.806 Processing of SF 1166.
101-41.806-1 Makeup and initial distribution of forms.
101-41.806-2 Information to be furnished by the disbursing office.
101-41.806-3 Disposition of forms after payment.
101-41.807 Identification and submission of transportation vouchers and supporting documents to GSA.
101-41.807-1 Identification of basic transportation payment documents.
101-41.807-2 Submission of transportation vouchers.
101-41.807-3 Transportation vouchers withheld or delayed.
101-41.808 Agency stations.
101-41.808-1 New or discontinued agency stations.

Subparts 101-41.9—101-41.48 [Reserved]

Subpart 101-41.49—Illustrations of Forms

101-41.4900 Scope of subpart.
101-41.4901 Standard forms.
101-41.4901-1103 Standard Form 1103, U.S. Government Bill of Lading (Original).
101-41.4901-1103-A Standard Form 1103-A, U.S. Government Bill of Lading (Memorandum Copy).
101-41.4901-1103-B Standard Form 1103-B, U.S. Government Bill of Lading (Memorandum Copy—Consignee).
101-41.4901-1104 Standard Form 1104, U.S. Government Bill of Lading (Shipping Order).
101-41.4901-1105 Standard Form 1105, U.S. Government Freight Waybill (Original).
101-41.4901-1106 Standard Form 1106, U.S. Government Freight Waybill (Carrier's Copy).
101-41.4901-1109 Standard Form 1109, U.S. Government Bill of Lading Continuation Sheet (Original).
101-41.4901-1109-A Standard Form 1109-A, U.S. Government Bill of Lading Continuation Sheet (Memorandum Copy).
101-41.4901-1109-B Standard Form 1109-B, U.S. Government Bill of Lading Continuation Sheet (Memorandum Copy—Consignee).

Sec.
101-41.4901-1110 Standard Form 1110, U.S. Government Bill of Lading Continuation Sheet (Shipping Order).
101-41.4901-1111 Standard Form 1111, U.S. Government Freight Waybill Continuation Sheet (Original).
101-41.4901-1112 Standard Form 1112, U.S. Government Freight Waybill Continuation Sheet (Carrier's Copy).
101-41.4901-1113 Standard Form 1113, Public Voucher for Transportation Charges (Original).
101-41.4901-1113-A Standard Form 1113-A, Public Voucher for Transportation Charges (Memorandum Copy).
101-41.4901-1131 Standard Form 1131, U.S. Government Transit Bill of Lading (Original).
101-41.4901-1131-A Standard Form 1131-A, U.S. Government Transit Bill of Lading (Memorandum Copy).
101-41.4901-1131-B Standard Form 1131-B, U.S. Government Transit Bill of Lading (Memorandum Copy—Consignee).
101-41.4901-1132 Standard Form 1132, U.S. Government Transit Bill of Lading (Shipping Order).
101-41.4901-1133 Standard Form 1133, U.S. Government Transit Freight Waybill (Original).
101-41.4901-1134 Standard Form 1134, U.S. Government Transit Freight Waybill (Carrier's Copy).
101-41.4901-1169 Standard Form 1169, U.S. Government Transportation Request (Original).
101-41.4901-1169-A Standard Form 1169-A, U.S. Government Transportation Request (Memorandum Copy).
101-41.4901-1170 Standard Form 1170, Redemption of Unused Tickets.
101-41.4901-1172 Standard Form 1172, Certificate in Lieu of Lost U.S. Government Transportation Request.
101-41.4901-1186 Standard Form 1186, Transmittal for Transportation Schedules and Related Basic Documents.
101-41.4902 GSA forms.
101-41.4902-7931 GSA Form 7931, Certificate of Settlement (Original)
101-41.4902-7931-1 GSA Form 7931, Certificate of Settlement (Claimant's Notice in Advance of Payment).
101-41.4902-7931-2 GSA Form 7931, Certificate of Settlement (Claimant's Notice).
101-41.4902-7932 GSA Form 7932, Settlement Certificate.
101-41.4902-7933 GSA Form 7933, Certificate of Settlement Transmittal.

AUTHORITY: Sec. 322 of the Transportation Act of 1940, 54 Stat. 955, as amended (40 U.S.C. 66); and sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

SOURCE: 42 FR 36672, July 15, 1977, unless otherwise noted.

§ 101-41.000 Scope of part.

This part sets forth policies and procedures governing the documentation and audit of payments for domestic and foreign freight and passenger transportation services furnished for the account of the United States; provides for uniformity in the procurement of and payment for such services; and furnishes information and guidance to agencies, to common and contract carriers and forwarders as defined in § 101-41.002, and to all others concerned. It continues those regulations and other information formerly in Title 4 CFR Subchapter D—Transportation, as amended, pertinent to the transportation audit function for which relocation has been authorized by Pub. L. 93-604, 88 Stat. 1959, approved January 2, 1975.

§ 101-41.001 Applicability of part.

The provisions of this part are applicable to all agencies whose payments for transportation services are subject to audit as provided by section 322 of the Transportation Act of 1940, as amended (49 U.S.C. 66).

§ 101-41.002 Definitions.

"Agency," as used in this Part 101-41, means any department, agency, or establishment of the United States Government whose payments for transportation services are subject to the transportation audit provisions of section 322 of the Transportation Act of 1940, as amended (49 U.S.C. 66).

"Carrier" means any carrier or forwarder, or duly authorized agent of either, subject to the provisions of section 322 of the Transportation Act of 1940, as amended (49 U.S.C. 66), which offers to provide transportation services for the account of the United States.

§ 101-41.003 Exceptions to regulations.

Exceptions to the regulations in this Part 101-41 shall be granted only by the Administrator of General Services or his designee. Requests for exceptions shall be made in writing to the General Services Administration

(FZA), Chester A. Arthur Building, Washington, D.C. 20406. A copy of the authorizing statement for each deviation, which shall include the nature of the deviation, the reasons for such special action, and the Administrator's approval, will be made available for public inspection in accordance with Subpart 105-60.3 of this title.

§ 101-41.004 Agency implementation.

(a) Agencies shall issue new or revise existing regulations and procedures to conform to the provisions of this Part 101-41 and shall forward two copies of such new or revised regulations and procedures to the General Services Administration (FZAPP), Chester A. Arthur Building, Washington, D.C. 20406.

(b) Government corporations may adopt all or part of the provisions of this Part 101-41 only if advance notice of the extent of adoption and of the effective date of adoption is sent to the address shown in paragraph (a) of this section.

§ 101-41.005 Forms.

Certain GSA and Standard forms required by the procedures governing the documentation and audit of payments for transportation services furnished for the account of the United States are illustrated in Subpart 101-41.49.

Subpart 101-41.1—General

§ 101-41.100 Scope of subpart.

This subpart provides guidance concerning the audit of transportation payments. The provisions shall be enforced and implemented by each head of an agency who has been delegated authority by the Administrator of General Services to perform, as his designee, the audit for which the General Services Administration has responsibility under 49 U.S.C. 66, as amended, to the extent not inconsistent with the delegation.

§ 101-41.101 Examination of payments, settlement of claims, and review of requirements.

Section 322 of the Transportation Act of 1940, as amended (49 U.S.C. 66), requires payment of carrier bills, in general, upon presentation and prior to audit by the Administrator of General Services or his designee. Further, provisions of Pub. L. 77-560, 56 Stat. 306 (31 U.S.C. 82g), relieve certifying and disbursing officers of liability for overpayments made for transportation furnished on U.S. Government bills of lading and U.S. Government transportation requests when such overpayments are due to the use of improper transportation rates or classifications or to the failure to deduct proper amounts under agreements.

(a) The authority vested in the Administrator of General Services by 49 U.S.C. 66, as amended, enables the Administrator, or his designee, to:

(1) Examine, settle, and adjust accounts involving payments for transportation and related services for the account of the United States;

(2) Adjudicate and settle transportation claims by and against the United States; and

(3) Deduct the amount of any overcharge by any carrier or forwarder from any amount subsequently found to be due such carrier or forwarder.

(b) The Administrator of General Services, or his designee, will exercise such authority subject to:

(1) The direction of the President;

(2) Fiscal and policy control of the Office of Management and Budget; and

(3) Decisions of the Comptroller General of the United States resulting from Federal agency or common and contract carrier appeals involving disputed claims by and against the United States or issued under the authority vested in the Comptroller General by the Budget and Accounting Act of 1921, as amended (31 U.S.C. 41), and the Accounting and Auditing Act of 1950, as amended (31 U.S.C. 65).

§ 101-41.102 GSA responsibilities and functions.

(a) With respect to the audit of transportation payments and under the statutory authority therefor, the Administrator of General Services or his designee is responsible for and will accomplish the functions set forth in paragraphs (a) (1) through (9) of this section.

(1) Examine and analyze payments for freight and passenger transportation services furnished for the account of the United States to determine their validity, propriety, and conformity with tariffs, quotations, agreements, or tenders and make adjustments to protect the interests of the United States;

(2) Examine, adjudicate, and settle transportation claims by and against the United States;

(3) Collect from carriers by refund, setoff, or other means, amounts determined to be due the United States;

(4) Compromise, terminate, or suspend debts due on transportation overcharges;

(5) Prepare reports to the Attorney General of the United States setting forth recommendations regarding the legal and technical bases available for use in prosecuting or defending suits by or against the United States and provide technical, fiscal, and factual data from records relative thereto;

(6) Provide transportation specialists and lawyers to serve as expert witnesses, to assist in pretrial conferences, to draft pleadings, orders, and briefs, and to participate as requested in connection with transportation suits by or against the United States;

(7) Review agency policies, programs, and procedures to determine their adequacy and effectiveness insofar as they relate to the audit of freight and passenger transportation payments, and review related fiscal and transportation practices;

(8) Furnish information on rates, fares, routes, and related technical data to agencies upon request; and

(9) Inform agencies of irregular shipping and routing practices, inadequate commodity descriptions, excessive transportation cost authorizations, and unsound principles employed in traffic and transportation management.

(b) In carrying out the foregoing functions, a designee head of an agency, acting in substance as GSA's audit surrogate, shall forward direct to the General Accounting Office (GAO) matters for consideration by the Comptroller General of the United States or by a division of the GAO or shall forward direct to the Department of Justice matters for its consideration of collection action, litigation, and related proceedings, as prescribed in 4 CFR Part 105. A claimant who disagrees with the settlement of his claim by GSA's audit surrogate may request reconsideration by the agency head or review by the Comptroller General of the United States in accordance with the guidelines set forth in Subpart 101-41.7. These matters need not be forwarded through GSA.

(c) GSA also makes technical examinations of payments to and claims by or against carriers for transportation services procured on commercial or Government documentation by certain Government agencies and corporations exempted from submitting transportation payment documents for centralized audit.

(d) GSA, independently or in cooperation with other agencies, will confer with individual carriers or carrier groups and associations representing specific modes of transportation to resolve mutual problems concerning technical and accounting matters and to acquaint them with the requirements of the Federal Government.

(e) Carrier accounting and traffic officials may visit the transportation audit facilities of GSA to discuss transportation audit matters. These facilities are located in the Chester A. Arthur Building, 425 I Street NW., Washington, D.C. The mailing address is: General Services Administration (FZA), Chester A. Arthur Building, Washington, D.C. 20406. Notice of an intended visit and, when necessary, an outline or a list of subjects for discussion should be furnished in advance so that necessary internal arrangements can be made and the required records assembled.

Subpart 101-41.2—Passenger Transportation Services Furnished for the Account of the United States

§ 101-41.200 Scope and applicability of subpart.

This subpart sets forth regulations and procedures governing the procurement of and the billing and payment for passenger transportation services for the account of the United States.

§ 101-41.201 [Reserved]

§ 101-41.202 Standard forms relating to passenger transportation.

The standard forms listed in paragraphs (a) through (h) of this section are prescribed for use in connection with the procurement of passenger transportation services for the account of the United States.

(a) SF 1113, Public Voucher for Transportation Charges (Original).

(b) SF 1113-A, Public Voucher for Transportation Charges (Memorandum Copy).

(c) SF 1169, U.S. Government Transportation Request (Original).

(d) SF 1169-A, U.S. Government Transportation Request (Memorandum Copy).

(e) SF 1169-B, U.S. Government Transportation Request (Duplicate). (Snapout assembly only.)

(f) SF 1169-C, U.S. Government Transportation Request (Triplicate). (Snapout assembly only.)

(g) SF 1170, Redemption of Unused Tickets.

(h) SF 1172, Certificate in Lieu of Lost U.S. Government Transportation Request.

§ 101-41.202-1 SF 1169, U.S. Government Transportation Request.

U.S. Government transportation request (GTR) forms are available in books of 10 sets, each set consisting of one original (SF 1169) and one memorandum copy (SF 1169-A) of punched-card stock; or in individual snapout assemplies consisting of one original, one memorandum card copy, and two paper copies (SF 1169-B and SF 1169-C). The GTR's are serially numbered and punched with that number at the time of manufacture, and no other numbering of the forms, including additions or changes to the prefixes or additions of suffixes, is permitted.

(a) The original GTR (blue), given to the traveler for presentation to the ticket agent of the issuing carrier, is evidence of service or accommodations required and shall, except as hereinafter provided, be used as a supporting document with the carrier's bill for the transportation charges.

(b) The memorandum card copy (buff) and the duplicate and triplicate paper copies (white) are distributed as directed by the regulations of each agency.

(c) SF 1169 assemblies are numbered sequentially in seven digits with an alphabetical prefix assigned to differentiate between civilian and military agencies as follows:

(1) *Civilian agencies, books of 10.* The prefix starts at A and advances through the alphabet; e.g., A-0,000,001 through A-9,999,999, then B-0,000,001 through B-9,999,999, etc.

(2) *Civilian agencies, individual snapout assemblies.* The prefix starts with the letter L and changes in reverse order to K, then J, etc.

(3) *Military agencies, individual snapout assemblies.* The prefix starts with the letter M and advances to N and forward through the remainder of the alphabet.

§ 101-41.202-2 SF 1170, Redemption of Unused Tickets.

SF 1170 consists of an original and three copies assembled in snapout carbon-interleaved sets. The original and the last copy are of buff-punched-card stock and the remaining copies are of white paper stock.

§ 101-41.202-3 SF 1113, Public Voucher for Transportation Charges.

SF 1113, which shall be used to bill passenger transportation charges is printed on white paper, 8½ by 14³⁄₁₆ inches overall, including an 8½ by 3³⁄₁₆-inch tear-off slip which generally is returned to the payee with the check in payment of charges. (See § 101-41.803(b) for exception.) The memorandum copy, SF 1113-A, is printed on yellow paper of the same size as the SF 1113 but without the tear-off slip.

§ 101-41.202-4 SF 1172, Certificate in Lieu of Lost U.S. Government Transportation Request.

SF 1172 is printed on white paper stock, 8 by 10½ inches. (See § 101-41.-211-3 for instructions on use of SF 1172.)

§ 101-41.202-5 Procurement of standard forms by agencies and carriers.

(a) Agencies may obtain supplies of SF 1169 and SF 1170 assemblies from GSA by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office providing support to the requesting activity. With respect to the GTR assemblies, the Region 3 Federal Supply Service of GSA maintains a record of the serial numbers imprinted on the forms and the names and mailing addresses of the receiving agencies. Where feasible, agencies should order the name and address of the office to be billed for payment of charges preprinted on each SF 1169 and the name and address of the office to receive the refund preprinted on each SF 1170. No other overprinting on SF 1169 or SF 1170 is permitted unless specifically approved in writing by the Deputy Assistant Commissioner for Transportation Audits (FZA), GSA.

(b) Carriers may purchase SF 1113, SF 1113-A, and SF 1172 from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, or have them printed commercially. When printing these forms commercially, carriers shall ensure that the forms conform to the exact size, wording, and arrangement of the approved Standard forms and, while no minimum grade of paper is set, carriers shall provide a reasonable grade of paper stock. Carriers may have SF 1113 and SF 1113-A printed also in continuous-feed format for machine billing by adding pin-feed strips on the margins. If machine use of the form would be facilitated thereby, the tear-off slip may be moved from the bottom to the right edge of SF 1113, but it must be perforated on all edges to measure $8\frac{1}{2}$ by $3\frac{3}{16}$ inches when detached from the body of the SF 1113 and from the pin-feed strips. The forms must conform in all other respects to the exact size, wording, color, and arrangement of the approved Standard forms. Any deviations must be approved in writing by the Deputy Assistant Commissioner for Transportation Audits (FZA), GSA.

§ 101-41.203 Procurement of passenger transportation services.

§ 101-41.203-1 Procurement from carriers.

(a) All passenger transportation services must be procured with GTR's unless otherwise provided herein or exempted in writing by the General Accounting Office or the Administrator of General Services (or his designee). Such services, whether procured by the use of cash, the GTR, or otherwise, generally must be procured direct from carriers. Travel agencies may be used only to the extent permitted by the regulations of the General Accounting Office (4 CFR 52.3) or GAO's specific exemption therefrom.

(b) The use of U.S.-flag vessels for travel on official business and of U.S.-flag certificated air carriers for Government-financed passenger transportation is required by statute (46 U.S.C. 1241 and 49 U.S.C. 1517) when such vessels and air carriers are available. Compliance with these statutes is mandatory whether the U.S. Government pays the transportation charges to the carrier direct or through reimbursement of an individual or other entity. Uniform standards and procedures prescribed by the Comptroller General of the United States for guidance of all departments, agencies, travelers, carriers, and others concerned in conforming to these statutes are found in 4 CFR 52.2 and in various Comptroller General decisions.

§ 101-41.203-2 Use of cash. [1]

(a) Cash shall be used to procure all passenger transportation services costing $10 or less, exclusive of Federal transportation tax, and to pay air excess baggage charges of $15 or less for each leg of a trip, unless special circumstances justify the use of a GTR. Agencies have the option of requiring travelers to use cash to procure passenger transportation services from, to, or between points in the United States, including Alaska and Hawaii, and its possessions or the trust territories, where such services cost more than $10 but do not exceed $100, exclusive of Federal transportation tax, for each trip authorized on official travel authorization. GTR's shall be used to procure all passenger transportation services costing in excess of $100, unless otherwise exempted in writing by the Administrator of General Services.

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[1] See Temporary Regulation G-45 in the appendix to Subchapter G for temporary changes to § 101-41.203-2.

(b) Agencies shall not impose a financial hardship on travelers by requiring their use of personal funds to purchase the services set forth in paragraph (a) of this section but shall provide the funds through travel advances.

(c) Travelers using cash to purchase individual passenger transportation services shall procure such services direct from carriers and shall account for those expenses on their travel vouchers, furnishing passenger coupons or other evidence as appropriate in support thereof. Moreover, travelers shall assign to the Government the right to recover any excess payments involving carriers' use of improper rates. That assignment is preprinted on the travel voucher and shall be initialed by the traveler.

(d) Travelers using cash to procure passenger transportation services shall be made aware of the provisions of § 101-41.209-4 concerning a carrier's liability for liquidated damages because of failure to provide confirmed reserved space. Also, travelers using cash shall adhere to the regulations of the General Accounting Office (4 CFR 52.2) regarding the use of U.S.-flag vessels and air carriers. (See § 101-41.203-1(b).)

§ 101-41.203-3 Quantity (bulk) ticket purchases.

Quantities of transportation tickets for use by persons traveling for the account of the United States may be procured through the issuance of a single GTR. Tickets and/or tokens for intracity transportation involving the use of local or short-haul transit service may be similarly purchased in bulk quantities. Each GTR issued for the procurement of tickets or tokens shall be identified as "Bulk purchase," and tickets so procured shall bear the words "U.S. Government" and "Not Redeemable for Cash Except by the U.S. Government."

(a) *Discretionary authority to approve use of quantity purchase procedures.* The head of an agency or his designee may approve the issuance of one GTR instead of individual GTR's or purchase orders to procure a quantity of tickets or tokens.

(b) *Limitations on and conditions for making quantity purchases.* The discretionary authority to use bulk purchase procedures is restricted to situations in which:

(1) A continuing substantial volume of individual travel via the same mode and class of transportation is required between one origin and one destination;

(2) Each one-way single fare for transportation does not exceed $50 with a corresponding maximum of $100 for the round trip, exclusive of Federal transportation tax; and

(3) Each group of tickets or tokens is to be used within any one 60-day period of a fiscal year.

(c) *Agency regulations governing use of the quantity-purchase system.* Each agency adopting the quantity-ticket-purchase method shall issue internal instructions clearly defining the particular circumstances and conditions under which transportation tickets may be purchased in quantity. Further, each agency shall establish specific accountability controls for stocks of tickets and tokens and for periodically reviewing its regulations to ensure maintenance of a reasonable and objective quantity purchase program.

§ 101-41.203-4 Reduced rate services.

Through fares, special fares, communtation fares, excursion fares, and reduced rate one-way and round-trip fares shall be used for official travel when it can be determined before starting a trip that all things considered, use of such service would be more practical and economical.

§ 101-41.203-5 Joint procurement of rail transportation and accommodations.

When the need for sleeping or parlor car accommodations is known at the time the rail transportation services are authorized, a single GTR shall be issued for joint procurement of transportation and accommodations. A separate GTR may be used to procure accommodations if such service is authorized after procurement of the rail transportation tickets; the GTR shall bear the name of the carrier issuing the sleeping or parlor car ticket and, when know, the number of the GTR covering the rail transportation service.

§ 101-41.203-6 Air excess baggage service.

(a) Cash shall generally be used to pay for the air carriage of authorized excess baggage when the cost thereof is $15 or less for each leg of a trip. (See § 101-41.203-2.) When the charges will exceed $15, the air carrier to which the authorizing GTR is presented shall prepare one or more sets of a Government excess baggage authorization/ticket (GEBAT) to provide a separate coupon for each change of flight, carrier, or stopover. It is essential to the payment process that the GTR number, the name and address of the office to be billed for the services furnished, and the name of the traveler, as shown on the authorizing GTR, be completely and accurately entered on the GEBAT.

(b) The GEBAT coupons shall be given to the traveler with the air ticket for presentation to the honoring carriers. Each carrier that is to provide excess baggage service shall lift the pertinent coupon, complete if to show the gross and net weights or number of pieces of baggage carried, and use the coupon to support the subsequent billing of charges. The carrier providing the service may bill its charges direct to the paying office or may go foward the coupon to the carrier to which the GTR was tendered for billing.

§ 101-41.204 Contracts, tenders, and charters.

§ 101-41.204-1 Contracts.

With the exception of contracts for intracity bus service and contracts entered into by the Military Airlift Command and the Military Sealift Command, a copy of each contract, negotiated or otherwise, providing rates or charges for passenger transportation services shall be transmitted by agencies, promptly upon execution, to the General Services Administration (FZATR), Chester A. Arthur Building, Washington, D.C. 20406.

§ 101-41.204-2 Tenders.

Three copies of each tender or quotation of special rates, fares, charges, or concessions for common or contract carrier passenger transportation services, including those made under section 22 of the Interstate Commerce Act, as amended (49 U.S.C. 22), shall be promptly submitted by the negotiating agencies to the General Services Administration (FZATR), Chester A. Arthur Building, Washington, D.C. 20406.

§ 101-41.204-3 Procurement and billing of contract or tender service.

Any service offered under a contract or tender shall be obtained by issuance of a GTR bearing the number of the pertinent contract or tender. The carrier shall bill its charges for service on SF 1113.

§ 101-41.204-4 Procurement and billing of charter service.

When air, bus, or water service is chartered for the account of an agency, the terms of the charter shall be in writing and signed by authorized representatives of the Government and the carrier. A GTR shall be issued to procure chartered service and shall be accompanied by the original charter order or certificate when it is presented for payment of charges on SF 1113.

§ 101-41.205 Special procedures for preparing agency-stocked tickets for passenger transportation services.

§ 101-41.205-1 Use of teletype ticketing equipment.

(a) *Teleticketing systems.* (1) Agencies are encouraged to adopt the use of teletype machines for issuing tickets for passenger transportation services (other than air excess baggage services) and the use of the systems concept of automatic payment as set forth in § 101-41.206, whenever cost effective and feasible, so that the number of GTR's issued may be reduced and the expense and time expended in picking up tickets and processing individual carrier bills may be eliminated. Each agency should compare its current costs associated with passenger transportation procurement and payment with the potential costs of using a teleticketing and/or automatic payment system. Specific cost information can be obtained from the local communications company responsible for installing the teletype ticketing equipment. Also, agencies may jointly establish a teleticketing system on a common-use basis to reduce individual agency costs.

(2) GSA has entered into a master contract with passenger-carrying members of the air transportation industry for teleticketing service. Copies of the contract, as well as information on agency procedures and responsibilities and GSA reporting requirements, may be obtained from the appropriate GSA regional office. Additional information and assistance is available from General Services Administration (ZFR), Washington, DC 20406. Under this teleticketing system, the contractor-airline furnishes prenumbered teletype ticket stock and a validating stamp to the agency. The issuance of a ticket on that stock is accomplished by activation of the teletype equipment by the ticketing airline in response to a request from the agency. Each agency shall be responsible for establishing procedures an facilities for effectively maintaining accountability, control, and security of the teleticket receiver, ticket stock, validating stamp, tickets and ticket copies, and GTR's.

(b) *General procedures for issuing and processing teletype tickets.* (1) At the beginning of each calendar week or of a mutually agreed upon payment period not exceeding 1 month, a so-called blanket GTR shall be issued for each agency or paying office using the service at a given location. The number of the GTR shall be furnished to the carrier each time transmission of a ticket is requested during the payment period so that it may be printed on the ticket. Any ticket transmitted by the carrier that does not bear the applicable GTR number shall not be validated or issued by the Government teletype clerk.

(2) A separate ticket listing shall be maintained for each GTR to show the number and value of each ticket issued under it, the appropriation or fund chargeable, and other information that may be essential to agency and carrier fiscal requirements.

(3) At the end of the payment period, payment shall be effected as set forth in § 101-41.206.

(c) *Procedures for processing unused tickets.* All coupons of a completely unused ticket procured on a GTR that has not been processed for payment shall be marked "VOID," and the pertinent entry on the ticket listing shall be lined out. All voided coupons other than the agent's coupon shall accompany the ticket listing when it is processed for payment. The agent's coupon shall be retained by the agency. A completely unused ticket procured on a GTR that has already been paid and all partially unused tickets, whether paid or not, shall be processed on Standard Form 1170, Redemption of Unused Tickets, to the contractor-carrier for refund under procedures set forth in § 101-41.210.

§ 101-41.205-2 Use of preprinted rail ticket stock.

(a) *Stocking of preprinted rail ticket stock.* (1) Passenger transportation ticket stock, preprinted for rail travel between designated cities only, and other material essential to the preparation and issuance of the tickets are available to agencies under a master contract concluded between GSA and the National Railroad Passenger Corporation (Amtrak). Agencies desiring to adopt this system may procure a copy of the master contract and a ticket service agreement for execution by the agency and Amtrak, as well as information on agency procedures and responsibilities and GSA reporting requirements, from the appropriate GSA regional office. Additional information is available from General Services Administration (ZFR), Washington, DC 20406.

(2) Under this contract, Amtrak furnishes the agency with a validating stamp, serially numbered ticket stock

preprinted with origin and destination cities, and related material. Also, Amtrak is responsible for training agency personnel in the preparation and issuance of tickets and other essential services. Open ticket stock shall not be supplied or used under any circumstances. Each agency shall be responsible for establishing procedures and facilities for effectively maintaining accountability, control, and security of the ticket stock, validating stamp, tickets and ticket copies, and the stock of GTR's.

(b) *Procedures for issuing tickets under individual GTR's.* Where few tickets are required each month, the agency shall prepare a GTR for each ticket issued and maintain a listing of all individual GTR's issued during the month. A completely unused ticket procured on a GTR that has not been processed for payment shall be voided and the pertinent entry on the GTR listing shall be lined out. All other unused tickets shall be processed under SF 1170 procedures as set forth in § 101-41.210. Within 5 days after the end of the month, the originals of each procuring GTR, the agent's coupons of each ticket issued in that month, all copies of any spoiled or voided tickets prepared during the month, and the listing of issuances shall be forwarded to the designated Amtrak office for preparation of its bill for the applicable charges. A copy of the listing shall be retained by the agency for comparison with the billed charges.

(c) *Procedures for issuing and processing tickets under blanket GTR's.* When the number of required tickets is of sufficient volume to warrant the use of automatic payment procedures as set forth in § 101-41.206, a blanket GTR shall be used to cover all tickets issued during a mutually agreed upon period not exceeding 1 month. Tickets shall be issued as follows:

(1) At the beginning of each payment period, a blanket GTR shall be prepared by the agency or paying office party to the ticket service agreement. The number of that GTR and of the ticket issued shall be furnished to Amtrak each time a reservation is requested. Each ticket shall bear the number of the procuring GTR.

(2) A separate ticket listing shall be maintained for each GTR to show the number and value of the tickets issued during the payment period and such other information as may be agreed upon by Amtrak and the agency.

(3) At the end of the payment period, payment shall be effected as set forth in § 101-41.206.

(d) *Procedures for processing unused tickets.* A completely unused ticket procured on a GTR that has not been processed for payment shall be marked "VOID," and the pertinent entry on the ticket listing shall be lined out. All coupons shall be accounted for and submitted to Amtrak with the ticket listing. A completely unused ticket procured on a GTR that has already been paid and all partially unused tickets, whether paid or not, shall be processed to Amtrak on Standard Form 1170 for refund under procedures set forth in § 101-41.210.

§ 101-41.206 Special procedures for automatic payment of carrier charges for passenger transportation services.

(a) At the end of the payment period for which a blanket GTR has been issued according to § 101-41.205, the original GTR, the auditor's and agent's coupons of each ticket issued but not voided during the period, all spoiled or completely unused tickets issued during the period, and the original and two copies of the ticket listing shall be forwarded to the responsible agency accounting activity for preparation of the appropriate disbursing documents and issuance of the check to the contractor-carrier for air transportation charges or to Amtrak for rail transportation charges. The payment check shall bear the name and location of the agency authorizing payment, the applicable GTR number, and the letters "APP" (for automatic payment procedures). For air service, the auditor's coupons and the original of the ticket listing for the period shall be sent to the contractor-carrier to facilitate distribution of the payment to the ticketing carriers. For Amtrak service, the agent's coupons and the original of the ticket listing shall be sent to Amtrak.

(b) Agencies using the disbursing facilities of the Department of the Treasury shall issue Standard Form 1166, Voucher and Schedule of Payments (voucher-schedule), to the Department of the Treasury for issuance of the check. The payee block of the voucher-schedule shall include the above-cited identifying information that is to appear on the payment check. The stub attached to the SF 1166 is not used in this instance and shall be destroyed.

(c) The accounting activity shall send to the General Services Administration (FZATR), Chester A. Arthur Building, Washington, D.C. 20406:

(1) A copy of the voucher-schedule (SF 1166) or the appropriate agency disbursing document;

(2) The original of the blanket GTR (SF 1169);

(3) A copy of the ticket listing; and

(4) The agent's coupon of each ticket paid on the listing for air service, or the auditor's coupon of each ticket paid on a listing for Amtrak service.

(d) The air contractor-carrier or Amtrak shall be responsible for making settlement of all overcharges found upon GSA's subsequent audit of the documents covering their respective transportation services and for stating valid claims for additional charges as prescribed in Subpart 101-41.6.

§ 101-41.207 Use, preparation, and disposition of GTR's (SF 1169).

§ 101-41.207-1 Use of GTR's.

GTR's shall be issued and used only for officially authorized travel for the account of the United States GTR's shall not be issued or used to obtain transportation services or privileges personally desired but not required for official business, such as extra-fare trains or planes, stopovers, and indirect routings which increase or exceed the cost of the authorized transportation or service. When a service other than that authorized is requested by the traveler, the carrier shall collect the additional cost thereof, including the Federal transportation tax, from the traveler at the time the GTR is exchanged for tickets. GTR's shall not be issued to obtain official passenger transportation services costing $10 or less, exclusive of Federal transportation tax, or air excess baggage services costing $15 or less for each leg of a trip, unless special circumstances justify the issuance of a GTR.

(a) *Stopovers.* Travelers required to make stops to conduct official business generally shall use only one GTR to procure a through ticket providing stopover privileges. Each stopover shall be specifically identified on the GTR.

(b) *Taxicab, intracity, transit services, toll charges, etc.* GTR's shall not be used for individually procured taxicab, airport limousine, intracity transit, or so-called drive-yourself type or other for-hire automobile services nor for payment of toll road or toll bridge charges.

§ 101-41.207-2 Preparation of GTR's.

(a) Detailed instructions for the preparation of the GTR and related forms are furnished in the GSA guide "How to Prepare and Process U.S. Government Transportation Requests" (national stock number 7610-01-038-1389). Agencies may obtain copies of the guide by submitting a requisition in FEDSTRIP/MILSTRIP format to the General Services Administration regional office providing support to the requesting activity. Copies also are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(b) The memorandum card copy (SF 1169-A) shall be prepared simultaneously with the original (SF 1169) and shall clearly show all information other than signatures that appears on the original at the time of surrender for service. Carrier agents shall not accept the memorandum card copy in lieu of the original.

§ 101-41.207-3 Disposition of spoiled or canceled GTR's.

A GTR spoiled in preparation, canceled, or prepared for issuance but not used shall be marked "CANCELED" across the face and forwarded immediately through the issuing office to the office maintaining the accountablility records. General Records Schedule 9, Travel and Transportation Records (see § 101-11.404-2), provides instructions for the disposal of a GTR.

§ 101-41.207-4 Accountability for GTR's.

Each agency shall prescribe procedures to control GTR procurement, stocking, distribution, and accountability and shall establish safeguards to prevent their improper or unauthorized use. Each officer and employee of the Government or other person having custody of a GTR is responsible for its safekeeping and is liable for amounts which the Government may be required to pay because of improper use of the GTR resulting from fault or negligence of the custodian.

§ 101-41.208 Validation and honoring of GTR's.

§ 101-41.208-1 Validation of GTR's and identification of travelers.

GTR's shall be completely filled out and properly signed by the issuing officer so as to be valid for presentation to obtain transportation services and/or accommodations. Carrier agents shall not honor GTR's which are incomplete or unsigned or which show erasures or alterations not validated by the initials of the issuing officer. Carriers shall require the person presenting a valid GTR to establish his identity as the traveler or party authorized to receive the ticket, exchange order, refund slip, or other transportation document. In the absence of satisfactory identification, the GTR shall not be honored.

§ 101-41.208-2 GTR identification on tickets and coupons.

Carriers shall stamp or endorse each coupon of the ticket, exchange order or other transportation document with the words "U.S. GOVERNMENT" and the serial number of the GTR authorizing the service. Each Government excess baggage authorization/ticket (GEBAT) shall show the GTR number, the complete name and address of the agency to which charges applicable to the excess baggage services shall be billed, and the name of the traveler, as shown on the authorizing GTR.

§ 101-41.208-3 Honoring GTR's.

The GTR shall be drawn on the carrier that is expected to furnish the service. However, a carrier other than the one named may honor the GTR provided the substitute carrier furnishes comparable service. When a different service or a service of lesser value is furnished, the type of service and the name of the carrier, if other than that shown on the GTR, shall be entered on the reverse of the GTR. That record shall be signed and dated by the carrier representative and countersigned by the traveler or person in charge of a group of travelers. The traveler or person in charge shall similarly endorse the memorandum card copy (SF 1169-A). If the original and the memorandum card copy are unavailable, the traveler or person in charge shall promptly forward written notification of the change to the office that issued the GTR. The carrier shall bill charges for the changed or lesser cost service to avoid subsequent adjustments with the Government.

§ 101-41.208-4 Issuance and use of sleeping or parlor car tickets when accommodations are not assigned.

(a) At the time a traveler presents a GTR authorizing sleeping or parlor car accommodations, the ticket agent shall issue a ticket therefor even if there is no guarantee that the accommodations will be available. This situation arises when a reservation cannot be made in advance for sleeping or parlor car service authorized to begin:

(1) At an intermediate point;

(2) At the initial point of travel but space is currently exhausted; or

(3) At the return portion of a round trip.

(b) It is incumbent upon the traveler holding such ticket to obtain an actual space assignment immediately upon arrival at the point where the authorized accommodations are to be furnished. When the service supplied is different or of a lesser value than that authorized by the ticket, the traveler shall secure written acknowledgment of that fact from the local ticket agent or conductor assigning the space and submit it promptly with a written report of the facts and circumstances, including reference to the number of the GTR exchanged for the ticket, to the office that issued the GTR. The traveler shall also forward with that report any unused tickets or transportation coupons in his possession.

[42 FR 36672, July 15, 1977; 42 FR 41128, Aug. 15, 1977]

§ 101-41.208-5 En route honoring of GTR's for rail and sleeping or parlor car services.

(a) When there is no ticket agent on duty, necessitating that tickets for rail transportation and/or sleeping or parlor car services be obtained at the nearest available point en route, the conductor shall:

(1) Honor the GTR to the first station en route where such tickets can be obtained;

(2) Endorse on the back of the GTR over his signature the points between which it was honored without tickets; and

(3) Obtain the signature of the traveler below the endorsement.

(b) The ticket agent at the station en route shall issue rail and/or sleeping or parlor car tickets from the initial point of service authorized on the GTR in exchange for the GTR.

§ 101-41.208-6 En route honoring of GTR's for sleeping or parlor car services only.

When a GTR is presented on the train for sleeping or parlor car accommodations only, it shall be honored by the conductor.

§ 101-41.208-7 Honoring of GTR's by bus drivers.

(a) When a GTR is presented direct to a bus driver:

(1) At a bus station not supplied with the proper ticket forms;

(2) At a nonagent station or flag stop; or

(3) At a station at which the ticket office is not open for the sale of tickets, the bus driver shall honor the GTR to destination or arrange for its exchange for a ticket at some intermediate point.

(b) When the GTR is exchanged at an intermediate ticket office, it shall be endorsed to show clearly that transportation was furnished from the point of origin of travel, not from the intermediate point at which the GTR was exchanged for a ticket.

§ 101-41.209 Unused transportation services or accommodations.

§ 101-41.209-1 Reporting unfurnished or unused transportation services or accommodations.

(a) An individual traveler or a person in charge of a group of travelers shall promptly submit to the appropriate office of his agency any unused tickets or coupons as well as a report identifying the appropriate GTR and setting forth pertinent facts if:

(1) Travel is terminated short of the authorized destination;

(2) Services actually furnished are different or of a lesser value than those authorized and the GTR cannot be so endorsed; or

(3) The return portion of a round trip ticket is not used.

(b) Lacking unused tickets or coupons as evidence of the unfurnished services, the traveler or person in charge of the group of travelers shall obtain written acknowledgement of the situation from the carrier's representative for submission with the report. If transportation and/or accommodations are furnished for a lesser number of persons than specified on a party ticket, the carrier's conductor or ticket collector shall note on the ticket or coupon the number of persons actually transported and the number and type of accommodations furnished.

§ 101-41.209-2 Adjustments for unfurnished or unused transportation services or accommodations.

All adjustments for unfurnished or unused services in connection with Government transportation must be processed through a Government agency, Travelers, issuing officers, or private individuals are not authorized to receive refunds or credits for unfurnished services or unused tickets or portions thereof issued in exchange for GTR's. Carriers are accountable to the Government for refunds or adjustments improperly made to issuing officers or individuals traveling at Government expense. (See § 101-41.210 for procedures for collecting the value of unused or unfurnished services.)

§ 101-41.209-3 Cancellation of reservations.

A traveler shall cancel reservations for transportation services and/or accommodations as soon as he knows that such reservations will not be used. Failure of a traveler to take such action may subject him to liability for cancellation charges assessed by the carrier.

§ 101-41.209-4 Denied boarding compensation.

Each traveler shall be made aware that the tariffs of certain scheduled air carriers require the payment of liquidated damages in certain situations if the carriers fail to provide confirmed reserved space. Since the individual's travel on official business is for the account of the United States, the Government would be damaged by the delay or failure and would be entitled to reimbursement if a carrier is liable under its tariff provisions for liquidated damages. Thus the traveler who has been denied confirmed reserved space shall ensure that the liable carrier shows on the compensation check the "Treasurer of the United States" as payee. The traveler shall give the carrier a receipt for the check, retain a copy of the receipt, and forward the check with the copy of the receipt to his agency for deposit.

§ 101-41.210 Unused transportation refund procedures.

§ 101-41.210-1 SF 1170, Redemption of Unused Tickets.

Agencies shall not revise carrier bills or require carriers to rebill items, except as provided in § 101-41.210-6, to recover from carriers the value of unused or unfurnished transportation or accommodations but shall make demand on the carriers through the use of SF 1170. A separate SF 1170 must be used for each GTR, though more than one ticket or adjustment transaction may be related to that GTR and listed on the redemption form. Automation of certain phases of the ticket redemption procedure will be considered by GSA (FZA) upon request of agencies having computer capabilities, where such automation offers potential savings.

§ 101-41.210-2 Agency processing of SF 1170.

Timely processing of SF 1170 is essential to meet the time limitations on refunds provided in the tariffs of certain carriers. Agencies processing SF 1170 shall insure that:

(a) All copies clearly show the required details;

(b) Claims based on other than unused tickets or portions thereof present the essential facts;

(c) The original and the duplicate copy, together with pertinent unused tickets, exchange orders, refund slips, etc., or portions thereof, are promptly forwarded to the carrier; and

(d) All other copies are retained by the agency for accounting control.

§ 101-41.210-3 Carrier processing of SF 1170.

Each carrier shall promptly refund moneys to adjust items listed on SF 1170, whether or not the related GTR has been submitted or paid. The carrier shall indicate on the original SF 1170 the amount credited to each ticket and the total amount being refunded and shall return the original with its refund to the agency. A refund that is inconsistent with the information on the SF 1170 shall be explained or computed on the SF 1170 or in an attached letter. A carrier declining to refund shall furnish an explanation on the original SF 1170.

§ 101-41.210-4 Agency processing of refunds.

(a) Upon return of the original SF 1170 with the refund, the agency shall record and deposit the refund in conformity with its fiscal procedures and promptly forward the original SF 1170, together with any advice from the carrier regarding the basis of the refund, to the General Services Administration (FZATR), Chester A. Arthur Building, Washington, D.C. 20406.

(b) Agencies receiving voluntary refunds from carriers for a difference in class of service furnished to travelers or for a transportation service not furnished shall report such refunds on SF 1170 to GSA (FZATR), showing the amount of the refund and other essential information in the spaces provided.

§ 101-41.210-5 Report of carrier failure to make refund for unused transportation services or accommodations.

If, within 3 months from the time of issuance of SF 1170, the carrier has failed to make refund for unused transportation or accommodations or to furnish satisfactory explanation as to why no refund is due, or has refused to make an adjustment, the agency shall transmit the triplicate copy of the SF 1170 and all related correspondence to the General Services Administration (FZATR), Chester A. Arthur Building, Washington, D.C. 20406, for appropriate action.

§ 101-41.210-6 Refund procedures covering unused transportation services billed by foreign-flag carriers.

(a) Standard Form 1170 and related procedures shall not be used or considered applicable when unused passenger transportation services billed by foreign-flag carriers are involved, except for:

(1) Canadian or Mexican carriers; or

(2) Foreign-flag carriers maintaining billing offices in the United States.

(b) Agencies shall institute procedures to effect recoveries for such unused services by deduction or setoff from the foreign-flag carriers' unpaid bills. Both agencies and travelers in foreign areas shall be kept informed of local regulations and requirements to insure that the interests of the United States will be protected.

(c) Adjustments for unfurnished transportation services not reported on SF 1170 but made by deduction or set-off shall be noted on the deduction voucher with a full description of each unused ticket or portion thereof. Reference shall also be made to the transportation request number and the disbursing office (D.O.) voucher number, the D.O. symbol number and, the date of payment of the voucher on which the GTR was paid if other than the deduction voucher. The unused ticket or portion thereof shall be forwarded by the agency to the carrier and a copy of the transmittal letter shall be attached to the deduction voucher involved.

§ 101-41.211 Lost or stolen GTR's; lost Government excess baggage authorization/tickets (GEBAT).

§ 101-41.211-1 Reporting of GTR's lost or stolen before presentation to carrier.

A lost or stolen GTR shall be reported promptly in writing by the accountable person to the appropriate agency office. This report shall include a complete statement of facts. If the lost or stolen GTR shows the carrier that is to honor the GTR, service desired, and point of origin, the accountable person shall also notify promptly in writing the named carrier and other local initial carriers.

§ 101-41.211-2 Disposition of recovered GTR's previously reported lost or stolen.

A GTR that has been reported as lost or stolen but that is subsequently recovered shall not be used to obtain transportation or accommodations. The recovered GTR, whether it is blank or partially or completely filled out, shall be returned promptly to the issuing officer who shall mark it "CANCELLED" and forward it through appropriate channels to the office keeping the accountability records. The GSA General Records Schedule 9, Travel and Transportation Records, provides instructions for disposition of cancelled GTR's (see § 101-11.404-2.)

§ 101-41.211-3 Billing charges for GTR's lost by carrier.

(a) A carrier losing or misplacing a GTR may bill charges for the service furnished, provided the SF 1113, Public Voucher for Transportation Charges, is supported by an SF 1172, Certificate in Lieu of Lost U.S. Government Transportation Request, and a statement of any other pertinent facts and circumstances. Charges so supported shall be billed separately from charges applicable to other

GRT's. (See § 101-41.241 for billing of transportation charges.)

(b) Disbursing officers shall certify on the SF 1172 that the services specified thereon have been furnished, that payment has not been made to any claimant, and that the record has been annotated to prevent duplicate payment. The carrier may transmit its bill (SF 1113 and SF 1172) to the General Services Administration (FZATR), Chester A. Arthur Building, Washington, D.C. 20406, if the paying agency is unknown.

§ 101-41.211-4 Disposition of GTR's previously certified lost by carrier.

An original GTR that is located after issuance of an SF 1172, together with a reference to the carrier's bill on which charges for the lost GTR were paid, shall be forwarded promptly to the General Services Administration (FZATR), Chester A. Arthur Building, Washington, D.C. 20406.

§ 101-41.211-5 Billing charges for air excess baggage coupons lost by carrier.

(a) When a carrier has lost its flight coupon copy of the GEBAT covering the air carriage of excess baggage, it shall bill the charges on SF 1113 supported by a statement listing the number of the authorizing GTR, name of traveler, weight or number of pieces of excess baggage authorized and carried, points between which service was authorized and rendered, and all other information pertinent to the transaction. This statement shall bear a certification by the carrier similar to that shown on the SF 1172. The disbursing officer shall certify on the back of the statement that the services specified therein have been furnished; that payment has not been made to any claimant, and that the record has been annotated to prevent duplicate payment.

(b) Excess baggage charges supported by a certified statement in lieu of a lost GEBAT shall be billed separately from other types of transportation charges. Where the paying agency cannot be determined, the carrier may submit its bill to the General Services Administration (FZATR), Chester A. Arthur Building, Washington, D.C. 20406, for forwarding to the responsible agency.

(c) An original GEBAT that is located after issuance of the certified statement in lieu of lost GEBAT, together with a reference to the carrier's bill on which charges for the lost GEBAT were paid, shall be forwarded promptly to GSA (FZATR).

§ 101-41.212 Accountability for lost or stolen tickets or coupons.

Travelers or other accountable persons are responsible for the custody of tickets and other transportation documents received in exchange for GTR's or other procuring instruments. Failure to safeguard these documents may result in personal liability to the traveler or other accountable person if the tickets or documents are used by unauthorized persons. Agency regulations should caution travelers and other accountable persons about such liability.

§ 101-41.213 Carrier entries on GTR's.

(a) The boxed section on the face of the GTR captioned "For Carrier Use Only" is reserved for the recording of proper data by the ticket agent and auditor of the billing carrier.

(1) In the "Form and Ticket NO." space, the ticket agent shall enter the ticket number and type of ticket furnished in exchange for the GTR.

(2) In the "Agent's Value" space, the ticket agent shall enter the cost of the transportation services furnished. Any accommodation charge or other supplementary service such as extra fare or excess baggage shall be listed separately and not included in the amount of the regular transportation charge.

(3) In the "Auditor's Value" space, the carrier audit officer shall enter the charges as specified in paragraph (a)(2) of § 101-41.213 for the "Agent's Value."

(b) On the reverse side of the GTR, the carrier's ticket agent shall show the date travel commenced so that tariff applicability may be determined.

§ 101-41.214 Billings and payment of passenger transportation charges.

§ 101-41.214-1 Carrier billing form.

Carrier charges for transportation services furnished for the account of the United States shall be billed on SF 1113. The bill, plus one memorandum copy (SF 1113-A), shall be submitted to the billing office specified on the GTR. Carrier bills for transportation charges shall be subject to the standards for payment prescribed in Subpart 101-41.4. Charges for passenger transportation services shall be billed separately from freight transportation charges.

§ 101-41.214-2 Factual support of charges billed.

(a) Documentary evidence of facts other than those shown on the GTR or other authorized procurement document, necessary to support or explain charges billed shall refer to the number of the GTR or other document involved, be associated therewith, and made a part of the billing record. Certifications or affidavits, section 22 quotations, charter orders, air ferry or live mileage supports, bus deadhead mileage supports, transfer checks, and authorizations are examples of such documents.

(b) The pertinent excess baggage coupon from the GEBAT set shall be furnished in support of charges billed for the air excess baggage service furnished for each portion of a journey.

(c) Each bill submitted by a carrier for the payment of charges for Government-financed passenger transportation services involving, in whole or in part, the use of a foreign-flag air carrier or vessel shall be supported by a certification explaining the nonavailability of U.S.-flag service, which shall be signed by the traveler or other responsible official of the agency authorizing such use. (See 4 CFR 52.2.)

[42 FR 36672, July 15, 1977; 42 FR 41128, Aug. 15, 1977]

§ 101-41.214-3 Carrier machine punching on GTR's.

Carriers using 80-column tabulating equipment have the option of keypunching certain information in the GTR's. Carriers electing to punch the GTR must punch all information in fields 1-20 as specified below. Fields 21-25 are for optional use by carriers. No other card fields may be used.

Fields	Information
1 to 5	Carrier's code number as published in the Continental Directory of Standard Carrier Alpha Codes (SCAC) and Standard Tariff Agents Codes. Inquiries shall be addressed to the NMFTA Tariff Research Section, ATA Building, 1616 P Street NW., Washington, D.C. 20036.
6 to 10	Carrier's bill number.
11 to 18	Total amount of transportation charges.
19 to 20	Federal account (appropriation) symbol. (To be obtained from the Department of the Treasury annual publication "Federal Account Symbols and Titles.")
21 to 25	Carrier's optional in-house code.

§ 101-41.214-4 Carrier notations on GTR's.

Unnecessary notations should not be inserted on the GTR during audit by the carrier since it is essential that the GTR show transactions only between travelers and carrier agents. This should not be construed, however, as prohibiting mechanized interpretation in the designated spaces of the GTR or other desirable information notations.

§ 101-41.214-5 Preparation of carrier billing form.

(a) Instructions for the preparation of Standard Form 1113, Public Voucher for Transportation Charges, are furnished in the GSA guide "How to Prepare and Process U.S. Government Transportation Requests" (national stock number 7610-01-038-1389). Agencies may obtain this guide by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office providing support to the requesting activity. Copies are also available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(b) The billing carrier shall list the serial numbers of all accompanying GTR's on the face of the SF 1113, show the charge applicable to each GTR in the amount column, and complete the column with the total charge. As many GTR's as may be itemized in a single column shall be included on the SF 1113 when the charges are being billed to the same office; however, billings for air excess baggage charges shall be restricited to no more than three GTR's per SF 1113.

(c) The carrier shall properly complete the "Payee Certificate" section of the voucher. Carriers may use a facsimile signature of the carrier's certifying official or a machine-typed name of that official, provided the facsimile signature or machine-typed official's name is initialed by a duly authorized person. The carrier shall properly complete the tear-off portion of the SF 1113 and shall not substitute a memorandum copy (SF 1113-A) for the tear-off portion.

(d) An agency shall not require a carrier to furnish more than one memorandum copy (SF 1113-A).

[42 FR 36672, July 15, 1977; 42 FR 41128, Aug. 15, 1977]

§ 101-41.214-6 Submission of carrier bill with supporting data.

GTR's being submitted for payment and any appropriately referenced documentation shall be placed in an envelope which shall be securely attached to the covering SF 1113. GTR's must not be folded, stapled, spindled, or mutilated.

§ 101-41.214-7 Cross-reference on billings for additional or supplemental services.

Vouchers supported by GTR's which extend or supplement services covered by other GTR's shall be endorsed by the paying office or issuing agency to show the disburing office (D.O.) voucher number, date of payment, and D.O. symbol number of the prior payment Vouchers covering air excess baggage charges need not be so endorsed.

Subpart 101-41.3—Freight Transportation Services Furnished for the Account of the United States

§ 101-41.300 Scope and applicability of subpart.

This subject sets forth regulations and procedures governing the procurement of and the billing and payment for freight or express transportation services for the account of the United States.

§ 101-41.301 [Reserved]

§ 101-41.302 Standard forms relating to shipment, transportation, and delivery of property.

The Standard forms set forth in this subpart are prescribed to accomplish the shipment, transportation, and delivery of all property, except as covered in § 101-41.304, by transportation companies for the account of the United States and the billing and payment of charges therefor.

§ 101-41.302-1 Listing of forms.

(a) SF 1103, U.S. Government Bill of Lading (Original).

(b) SF 1103-A, U.S. Government Bill of Lading (Memorandum Copy).

(c) SF 1103-B, U.S. Government Bill of Lading (Memorandum Copy—Consignee).

(d) SF 1104, U.S. Government Bill of Lading (Shipping Order).

(e) SF 1105, U.S. Government Freight Waybill (Original).

(f) SF 1106, U.S. Government Freight Waybill (Carrier's Copy).

(g) SF 1109, U.S. Government Bill of Lading Continuation Sheet (Original).

(h) SF 1109-A, U.S. Government Bill of Lading Continuation Sheet (Memorandum Copy).

(i) SF 1109-B, U.S. Government Bill of Lading Continuation Sheet Memorandum Copy—Consignee).

(j) SF 1110, U.S. Government Bill of Lading Continuation Sheet (Shipping Order).

(k) SF 1111, U.S. Government Freight Waybill Continuation Sheet (Original).

(l) SF 1112, U.S. Government Freight Waybill Continuation Sheet (Carrier's Copy).

(m) SF 1113, Public Voucher for Transportation Charges (Original).

(n) SF 1113-A, Public Voucher for Transportation Charges (Memorandum Copy).

(o) SF 1131-A, U.S. Government Transit Bill of Lading (Original).

(p) SF 1131-A, U.S. Government Transit Bill of Lading (Memorandum Copy).

(q) SF 1131-B, U.S. Government Transit Bill of Lading (Memorandum Copy—Consignee).

(r) SF 1132, U.S. Government Transit Bill of Lading (Shipping Order).

(s) SF 1133, U.S. Government Transit Freight Freight Waybill (Original).

(t) SF 1134, U.S. Government Transit Freight Waybill (Carrier's Copy).

[42 FR 36672, July 15, 1977; 42 FR 41129, Aug. 15, 1977]

§ 101-41.302-2 Description and distribution of bills of lading. [1]

(a) The U.S. Government bill of lading (GBL) and the U.S. Government transit bill of lading each consist of six basic forms and are available in sets of seven or nine parts, depending on the number of memorandum copies needed. The sets are carbon-interleaved for simultaneous preparation. The GBL set is arranged in the following order:

(1) SF 1103 (original), which refers to Subpart 101-41.3 for the terms and conditions of the contract of transportation and contains both the description of the articles comprising the shipment and the certificate of delivery is given to the carrier upon tender of shipment for use as supporting documentation with the voucher covering the transportation charges involved.

(2) SF 1104 (shipping order) is retained by the carrier's agent at the shipping point.

(3) SF 1105 (freight waybill (original)) accompanies the shipment or is otherwise sent to destination in compliance with origin carrier's instructions. It also serves as the substitute billing document when the original GBL is lost.

(4) SF 1106 (freight waybill (carrier's copy)) is for disposition by the carrier.

(5) SF 1103-A (memorandum copy), of which there are two or four copies, is for use by the shipper for fiscal and administrative purposes.

(6) SF 1103-B (memorandum copy—consignee) is sent to the consignee immediately after surrender of the original to the initial carrier.

(b) The U.S. Government transit bill of lading set (SF 1131 through SF 1134) is arranged in the same order as the GBL.

(c) The GBL continuation sheets (SF 1109 through SF 1112) are also available in seven- or nine-part sets and are arranged in order corresponding to the GBL sets. The continuation sheets are for use with both the regular GBL and the transit GBL.

(d) Separate sheets of the memorandum copies (SF 1103-A, SF 1109-A, and SF 1131-A) are available to Government agencies for addition to the respective seven- or nine-part sets.

§ 101-41.302-3 Terms and conditions governing acceptance and use of GBL's.

(a) In no case shall prepayment of charges be demanded by the carrier nor collection be made from the consignee. The GBL, properly certified and attached to an SF 1113, Public Voucher for Transportation Charges, shall be presented to the paying office indicated in the "Bill Charges To" section on the face of the GBL for payment to:

(1) The last carrier or forwarder in privity with the contract of carriage as evidenced by the covering GBL;

(2) A participating carrier or forwarder in privity with the contract of carriage as evidenced by the covering GBL when the bill is submitted with a waiver accomplished by the last carrier (as described in paragraph (a)(1) of this section) in favor of the billing carrier;

(3) A carrier (as described in paragraph (a)(1) of this section) or its properly designated warehouse agent billing in the name of the carrier as authorized in § 101-41.309-2 dealing with certification of shipments in storage; or

(4) An agent of the carrier or forwarder (as described in paragraphs (a)(1) or (2) of this section): *Provided,* The bill is submitted in the name of the principal. The agent's mailing address may be shown on those bills, and the checks, drawn in the name of the principal, may be mailed to the agent.

(b) The GBL is subject to the same rules and conditions as govern shipments made on the usual commercial forms unless otherwise specifically provided or stated herein.

(c) The shipment made on the GBL shall take a rate no higher than that chargeable had the shipment been made on the uniform straight bill of lading, uniform express receipt, or any other form provided for commercial shipments.

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[1] See Temporary Regulation G-44 in the appendix to Subchapter G for temporary changes to §101-41.302-2.

(d) No charge shall be made by any carrier for the execution and presentation of a GBL in manner and form as provided in this Subpart 101-41.3.

(e) The shipment is made at the restricted or limited valuation specified in the tariff or classification or established pursuant to section 22 of the Interstate Commerce Act, as amended (49 U.S.C. 22), or to another equivalent contract, arrangement, or exemption from regulation at or under which the lowest rate is available, unless otherwise indicated on the face of the GBL.

(f) Receipt for the shipment is subject to the consignee's annotation of loss, damage, or shrinkage on the delivering carrier's documents and the consignee's copy of the same documents. When loss or damage is not discovered until after delivery of shipment and receipt therefor, the consignee shall promptly notify, preferably by telephone, the nearest office of the last delivering carrier and extend to the carrier the privilege of examining the shipment.

(g) In case of loss, damage, or shrinkage in transit, the rules and conditions governing commercial shipments, as they relate to the period within which notice thereof shall be given the carrier or to the period within which claim therefor shall be made or suit instituted, shall not apply. Deletion of this item will be considered valid only with the written concurrence of the Government official responsible for making the shipment.

(h) Carrier's rights to shipping charges are not affected by facts set out in the issuing office section of the GBL.

(i) The nondiscrimination clauses contained in section 202 of Executive Order 11246, as amended by Executive Order 11375, relative to equal employment opprotunity for all persons without regard to race, color, religion, sex, or national origin, and the implementating rules and regulations prescribed by the Secretary of Labor are incorporated be reference in the GBL.

§ 101-41.302-4 General instructions for the preparation of GBL's and common problem areas.

(a) *Availability of guide.* Instructions for the preparation of GBL's and related forms are furnished in the GSA guide "How to Prepare and Process U.S. Government Bills of Lading," (national stock number 7610-00-682-6740). Agencies may obtain copies of the guide by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office providing support to the requesting activity. Copies are also available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

(b) *Use of U.S.-flag carriers.* The use of U.S.-flag vessels by officers and employees of the United States for the transportation of their personal effects and the use of U.S.-flag certificated air carriers for any Government-financed movement of freight by air is required by statute (46 U.S.C. 1241 and 49 U.S.C. 1517) when such vessels and air carriers are available. Compliance with these statutes is required whether the United States pays the transportation charges to the carrier direct or through reimbursement of an individual or other entity. Uniform standards and procedures prescribed by the Comptroller General of the United States for guidance of all departments, agencies, officers, and employees of the United States; carriers; and others concerned, in conforming to these statutes are found in 4 CFR 52.2 and in various Comptroller General decisions.

(c) *Common problem areas.* (1) The "For Use of Destination Carrier Only" section is reserved for the recording of certain data by the accounting officer of the billing carrier and must not be covered by marks or writing by others handling the GBL. This boxed section on the memorandum copies of the GBL form is available to the issuing officer for showing the estimated transportation charges and such accounting classifications as may be required.

(2) The issuing office shall complete the "For Use of Issuing Office" section of the GBL, including any GBL to be used by a contractor as shipper. Failure of the issuing office to show the date and number of the contract, purchase order, or other authority for the shipment and failure to show the f.o.b. point named therein may result in a carrier's refusal to accept the shipment from the contractor-shipper. Accountability for GBL's used by a contractor-shipper remains with the issuing office. Thus the name and title of the issuing officer and the name and address of the issuing office, rather than those of the contractor-shipper, must appear on the GBL.

(3) Erasures, interlineations, or alterations in GBL's must be authenticated and explained by the person who made them.

(4) Subpart 101-40.7 provides a uniform system and forms for agency documentation of discrepancies or deficiencies incurred in shipments of materials to enable initiation and processing of claims against carriers for loss and damage, shortages, and the disposition of overages.

§ 101-41.302-5 Pickup, delivery, or trap-car services.

(a) Pertinent sections on the GBL indicating that the carrier furnished pick-up or trap-car service at origin shall be completed and initialed by the shipper or shipper's agent. In certain instances the tariff covering these services provides charges that are in addition to the line-haul rate or charges.

(b) When a shipper or consignee so requests and if the carrier furnishes delivery or trap-car service at destination in connection with a less-than-carload or an any-quantity rail shipment or on shipments by other modes of transportation, the carrier shall check the appropriate box in the "Certificate of Carrier Billing for Charges" section on the GBL.

§ 101-41.302-6 Special services.

(a) Additional information or facts necessary to support higher charges resulting from accessorial or special services ordered and furnished incident to the line-haul transportation shall be inscribed on the face of the GBL in the sections designated "Description of Articles" or "Marks" or on the reverse side of the GBL beneath the caption "Special Services Ordered." The inscription shall contain the name of the carrier upon whom the request was made and the kind and scope of services ordered and shall be signed by or for the person ordering the services. If such an inscription is impractical, a statement containing the information and bearing the number of the covering GBL and signed by or for the person who ordered the services will be acceptable.

(b) When the GBL is not available, the original and one copy of the statement shall be given to the carrier from whom the services were ordered. The original shall be transmitted to the billing carrier for presentation with the bill for all transportation charges.

(c) When accessorial or special services are requested but not furnished, the GBL shall be so annotated by the carrier.

§ 101-41.303 Conversion of commercial bills of lading to GBL's.

§ 101-41.303-1 Necessity for conversion.

GBL procedures shall be followed to preclude a commercial bill of lading or a commercial express receipt from being used on shipments for the United States, except as provided by law or by this Subpart 101-41.3 or by a specific exception to this subpart. Payment of the transportation charges generally will not be made by the Government on such commercial documents alone. However, when a commercial bill of lading or commercial express receipt is unavoidably used on a shipment of property for the account of the United States under circumstances not authorized herein, the words "TO BE CONVERTED TO A U.S. GOVERNMENT BILL OF LADING" must be conspicuously inscribed on the original and all copies of the commercial document.

§ 101-41.303-2 Conversion of commercial bills of lading.

(a) A commercial bill of lading or a commercial express receipt may be converted to a GBL by either of the following procedures:

(1) When the origin carrier requires the original commercial document, the shipper shall surrender it to the initial carrier's agent for his certification as follows:

INITIAL CARRIER'S AGENT, BY SIGNATURE BELOW, CERTIFIES THAT HE RECEIVED THE ORIGINAL OF THIS DOCUMENT

The certification shall be inscribed on the original and all copies of the commecial bill of lading or commercial express receipt, and a memorandum copy thereof shall be returned to the shipper for forwarding to the authorizing agency. The authorizing agency receiving the properly certified memorandum copy of the commercial bill of lading or commercial express receipt shall issue or cause to be issued a GBL, forward the GBL promptly to the origin carrier for transmittal to the billing carrier, and retain the memorandum copy of the commercial document. The billing carrier, having received both the original commercial document and the GBL from the origin carrier, shall execute the "Certificate of Carrier Billing for Charges" on the GBL, cross-reference both original documents, securely attach them together, and use the documents to support its billing.

(2) When the origin carrier does not require the original commercial document, the shipper shall obtain the signature of the origin carrier's agent on the original and all copies and immediately forward the original to the agency that authorized the shipment. The authorizating agency shall issue or cause to be issued a GBL for the shipment invoIed. The original commerial document and the issued GBL, properly cross-referenced and securely attached together, shall then be forwarded to the origin carrier for transmittal to the billing carrier for execution of the "Certificate of Carrier Billing for Charges," and preparation of an SF 1113.

(b) The signature of the initial carrier's agent shall not be required on GBL's converted from commercial documents when it appears on the commercial documents attached thereto.

§ 101-41.303-3 Lost commercial bills of lading.

(a) When the original commercial bill of lading or commercial express receipt has been lost or destroyed and therefore is not available to the billing carrier, the shipper or origin carrier possessing an authentic copy of the commercial document may have it converted to a GBL by the agency that authorized the shipment.

(b) The issuing office shall, before releasing the copy of the commercial document from which conversion is made, reproduce two additional copies of the authentic copy of the commercial document: One to be retained for its records and the other to be forwarded to the agency's paying office.

(c) The issuing office shall forward the copy of the commercial document and the issued GBL, each properly cross-referenced and securely attached together, to the origin carrier for transmittal to the billing carrier which shall execute the carrier's certificate and use the two documents as support for its bill for the charges.

(d) Each agency and department shall develop procedures and controls to preclude more than one GBL being issued for the same shipment and to preclude duplicate payment of the transportation charges involved.

§ 101-41.303-4 Lost original commercial bills of lading subsequently recovered.

When the original commercial bill of lading or commercial express receipt is recovered after conversion of an authentic copy of the commercial document to a GBL, the original commercial document shall be forwarded to the paying office of the agency concerned, with an appropriate reference to the previous conversion. If the transportation charges on the GBL converted from the copy of the commercial document have already been paid, the recovered original commercial bill of lading or commercial express receipt shall be marked "VOID"; annotated with the disbursing office (D.O.) symbol number, the D.O. voucher number (or the GSA certificate of settlement number), and payment date; and transmitted to the General Services Administration

(FZATR), Chester A. Arthur Building, Washington, D.C. 20406.

§ 101-41.304 Exception to the use of GBL's.

§ 101-41.304-1 Local storage, drayage, and haulage.

GBL's shall not be used when local storage, drayage, and hauling services are procured by contract. They may be used, however, when such services are provided for in established tariffs, schedules, or tenders.

[42 FR 36672, July 15, 1977; 42 FR 41129, Aug. 15, 1977]

§ 101-41.304-2 Limited authority to use commercial forms and procedures.

(a) *Discretionary authority to approve use of commercial forms and procedures.* Subject to the limitations in paragraph (b) of this section, the head of an agency or his designee may elect to use commercial bills of lading or commercial express receipts and commercial procedures, rather than the regular GBL and related procedures to procure freight or express transportation services for certain small shipments. This discretionary authority is directed generally toward those situations involving shipments of a recurring nature where it is cumbersome and impractical to issue GBL's. In implementing this small shipment procedure, agencies shall adhere to the restrictions on the use of foreign-flag carriers as set forth in § 101-41.302-4(b).

(b) *Limitations on use of commercial forms and procedures.* The use of commercial forms and procedures for small shipments is subject to the limitations and instructions set forth in paragraphs (b)(1) through (b)(4) of this section.

(1) Upon determination that commercial forms and procedures are to be used, the agency shall establish administrative regulations and procedures clearly defining the particular shipping circumstances and conditions for their use. Notice of adoption and of any subsequent cancellation of the small shipment procedure prescribed in this § 101-41.304-2 shall be sent to the General Services Administration (FZAPP), Chester A. Arthur Building, Washington, D.C. 20406.

(2) The use of commercial forms and procedures for small shipments, as prescribed in § 101-41.304-2, shall be optional on the part of carriers and forwarders. However, a letter of agreement signifying acceptance of the arrangements must be executed and filed with the participating agency by the carrier or forwarder. That letter shall include the following provision:

> The shipments covered by this agreement are subject to the terms and conditions (except as to billing carrier and prepayment) set forth in Standard Form 1103, U.S. Government Bill of Lading, and any other applicable contract or agreement of the carrier for the transportation of shipments for the United States on U.S. Government bills of lading.

The letter of agreement also shall include, where applicable, the carrier's concurrence in the use of cash for payment of transportation charges for these shipments as set forth in paragraph (d)(3) of this section.

(3) The commercial forms and procedures authorized in § 101-41.304-2 are to be applied only to shipments in which the transportation charges ordinarily do not exceed $100 per shipment and the occasional exception does not exceed that monetary limitation by an unreasonable amount.

(4) Commercial forms and procedures shall not be used for household goods van shipments.

(c) *Billing of charges for transportation services furnished on commercial forms.* Charges for transportation services furnished under commercial documenatation, as authorized by this § 101-41.304-2, shall be billed by and paid to the origin carrier or forwarder and may not be waived to any other carrier or forwarder. Also, these charges shall be billed on the commercial forms customarily used by carriers, rather than on the SF 1113, in order to clearly identify the bills as commercial-type shipments.

(d) *Payment of charges for transportation services procured on commercial forms.* (1) Payment of charges for transportation furnished under the commercial forms and procedures authorized herein are subject to the standards set forth in Subpart 101-41.4.

(2) Payment of charges for transportation services procured on commerical forms as prescribed in § 101-41.304-2 may be made prior to or upon completion of service and at either origin or destination only upon presentation by the origin carrier or forwarder of the usual ticket, receipt, bill of lading, or equivalent document covering the service involved, subject to later recovery by deduction or otherwise of any payment made for any service not received as ordered by the United States. The commercial document shall be clearly annotated to indicate the point at which payment shall be made. Further, regarding shipments paid at origin, the consignee or receiver of a shipment not delivered in good order shall notify the shipper so that proper claim action may be initiated.

(3) Payment may be made in cash from imprest funds at the option of the agency but only with the concurrence of the carrier or forwarder. Imprest fund disbursements, forms, and accountability for the transportation transactions specified herein shall be made in accordance with paragraph (d)(2) of this section and the regulations of the General Accounting Office relating to imprest funds.

(4) All payments, including supplemental payments, are subject to otherwise applicable statutory limitations.

(e) *Administrative procedures for processing vouchers covering small shipments on commercial forms.* (1) The disbursing forms and documentation prescribed by the Department of the Treasury shall be used for commercial-type billings. Agencies shall not classify these paid bills as transportation vouchers for submission to GSA for postpayment audit but shall retain them in file for site audit.

(2) Supplemental transportation claims arising after payment of the original bills should ordinarily be settled by agencies direct with the carriers. However, claims involving a doubtful question of fact or law, or a question regarding the amounts properly due, may be forwarded to GSA (FZATM) for direct settlement as prescribed in Subpart 101-41.6. The complete record shall be furnished including a reference to the appropriation or fund to be charged.

(3) Each agency shall establish adequate procedures and controls to prevent and detect duplicate payments, properly account for expenditures, and require notice from the consignee when a discrepancy in shipment occurs. Agencies may prescribe the use of statistical sampling procedures in accordance with General Accounting Office regulations, for examining and approving those disbursement vouchers.

§ 101-41.305 Procedures governing shipments accorded transit privileges.

[42 FR 36672, July 15, 1977; 42 FR 41129, Aug. 15, 1977]

§ 101-41.305-1 General instructions for the preparation of transit GBL's and common problem areas.

(a) *Availability of guide.* Instructions for the preparation of transit GBL's are furnished in the GSA guide "How to Prepare and Process U.S. Government Bills of Lading" (national stock number 7610-00-682-6740). Agencies may obtain copies of the guide by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office providing support to the requesting activity. Copies are also available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

(b) *Common problem areas.* (1) The "For Use of Destination Carrier Only" section is reserved for the recording of certain data by the accounting officer of the billing carrier and shall not be covered by marks or writing by others handling the transit GBL. This section on the memorandum copies of the transit GBL is not ruled and is available to the issuing officer for showing estimated transportation charges and such accounting classifications as may be required.

(2) The issuing office shall complete the "For Use of Issuing Office" section of the transit GBL, including any transit GBL to be used by a contractor as shipper. Failure of the issuing office to show the date and number of the contract, purchase order, or other

authority for the shipment and failure to show the f.o.b. point named therein may result in a carrier's refusal to accept the shipment from the contractor-shipper. Accountability for a transit GBL used by a contractor-shipper remains with the issuing office. Thus, the name and title of the issuing officer and the name and address of the issuing office, rather than those of the contractor-shipper, shall appear on the transit GBL.

(3) Erasures, interlineations, or alterations in GBL's must be authenticated and explained by the person who made them.

§ 101-41.305-2 Transit records; processing and distribution.

(a) *Section 22 quotation and tariff requirements.* Transit shipments shall be handled in accordance with the provisions of the applicable quotations issued under section 22 of the Interstate Commerce Act, as amended (49 U.S.C. 22), or the provisions of the carriers' tariffs providing the transit privileges.

(b) *Application of transit tonnage.* Inbound transit information shall be provided in the "Transit Reshipping Certificate—Inbound Billing References" section of the transit GBL.

(c) *Furnishing transit certificates.* Transit certificates (record of transit tonnage and application) need not be prepared and furnished to GSA (FZATR) when the paying office normally verifies or enters the inbound billing information in the "Transit Reshipping Certificate—Inbound Billing References" section of the transit GBL. If the paying office does not verify or provide inbound billing information, the certificates shall be furnished to the General Services Administration (FZATR), Chester A. Arthur Building, Washington, DC 20406, as follows:

(1) One copy promptly after recording the inbound tonnage information, and

(2) One copy promptly after recording the information on reshipment, partial reshipment, or cancellation.

§ 101-41.305-3 Free or surrendered transit GBL's.

A free or surrendered transit GBL is issued for use with an outbound shipment from the transit installation where the line-haul charge to the transit installation equals or exceeds the through transportation charge plus the transit charge. After completing the "Certificate of Carrier Billing for Charges" section of the free transit GBL, the billing carrier shall attach the free transit GBL to an SF 1113 bearing the carrier's bill number and submit both forms to the paying office of the agency concerned with a check for any amount due the United States.

§ 101-41.305-4 Billing for transit shipments.

A separate SF 1113 with the word "TRANSIT" typed immediately beneath the caption "ALPHA PREFIX AND SERIAL NO. OF SUBVOUCHER" shall be prepared by the carrier for each transit GBL.

§ 101-41.305-5 Paying office action on transit billings.

The paying office shall verify and, if necessary, correct the information in the "Transit Reshipping Certificate—Inbound Billing References" section of the transit GBL. When the required information is not shown, the paying office shall enter the disbursing office (D.O.) voucher number, bureau voucher number, if any, the date of payment, and the D.O. symbol number of the inbound billing on the transit GBL before forwarding the SF 1113 and notice of any refunds to GSA (FZATR). Free or surrendered transit GBL vouchers shall be transmitted to GSA (FZATR) separate from other types of transportation vouchers.

§ 101-41.306 Disposition of GBL forms upon delivery of property to carrier for shipment.

(a) The shipper (issuing officer or contractor) shall surrender the original GBL, shipping order, freight waybill (original), freight waybill (carrier's copy), and comparable copies from continuation sheets, if any, to the intitial carriers' agent at the time the shipment is tendered. The carrier's agent shall acknowledge receipt of the shipment and of the original GBL and copies by inserting in the designated spaces on the lower left side of the original GPL and on all copies of the GBL the name of the initial carrier, the date of receipt, and his signature.

(b) The issuing office shall retain a certified memornadum copy; i.e., the issuing office copy (SF 1103-A or SF 1131-A and SF 1109-A, if any), and send the consignee copy (SF 1103-B or SF 1131-B and SF 1109-B, if any) to the consignee. A contractor acting as shipper shall retain one certified memorandum copy, forward one copy to the issuing office, and send the consignee copy to the consignee.

(c) On local or single-line movements, the carrier shall retain the original GBL for use as support for billing of charges after properly executing the "Certificate of Carrier Billing for Charges." On interline or intermodal movements, except those falling under the procedures in § 101-41.312, the origin and interline carriers shall transmit the original GBL to the last line-haul carrier authorized to bill the charges for execution of the "Certificate of Carrier Billing for Charges" on the basis of the delivery documents and for billing of the charges. Carriers must not delay movement or delivery of Government shipments because they have not received the original GBL from the origin or interline carriers.

§ 101-41.307 Lost GBL's.

§ 101-41.307-1 Substitute document.

When the original of the regular GBL or the transit GBL (SF 1103 or SF 1131) has been lost or destroyed, the billing carrier shall use the freight waybill (original) (SF 1105 or SF 1133), properly certified by the issuing office and by the carrier, as a substitute document for billing the charges. Execution of the "Certificate of Carrier Billing for Charges" on the substitute document is not required for charges billed under the exception procedures in § 101-41.312.

§ 101-41.307-2 Certification of substitute document.

(a) *By issuing office.* The issuing office shall certify the original freight waybill substituted for the lost original GBL on the basis of information shown on the retained memorandum copy thereof. That certification, properly signed, dated, and placed on the reverse of the freight waybill, shall read: I CERTIFY THAT THE SERVICES SHOWN ON THIS FREIGHT WAYBILL WERE REQUESTED.

(b) *By carrier.* After the original freight waybill has been certified by the issuing office, the billing carrier shall enter on the reverse side of the form a properly executed certificate of delivery showing all information required in the "Certificate of Carrier Billing for Charges" section on the face of the original GBL.

§ 101-41.307-3 Issuing office records.

The issuing office shall enter each certification of a substituted document in its GBL accountability record and promptly notify the responsible payment office so that the paying office may take steps to preclude duplicate payment of the transportation charges.

§ 101-41.307-4 Lost original GBL's recovered before settlement.

When a lost original GBL is recovered by either the Government or the carrier before settlement is effected on the basis of the substitute freight waybill, the original GBL shall be used for payment of the transportation charges. The substitute freight waybill shall be marked "CANCELLED—ORIGINAL BILL OF LADING LOCATED" and returned to the issuing office for correction of its GBL accountability records and for notification to the payment office concerned that payment shall be made on the original GBL.

§ 101-41.307-5 Lost original GBL's recovered after settlement.

When a lost original GBL is recovered after settlement is effected on the basis of the freight waybill, the original GBL shall be forwarded to the paying office of the agency concerned for cancellation. The original GBL shall be inscribed with the disbursing office (D.O.) symbol number, the D.O. voucher number (or the GSA certificate of settlement number), and the payment date of the freight waybill settlement voucher and shall be forwarded to GSA (FZATR).

§ 101-41.307-6 Lost GBL's and freight waybills (original).

When both the original GBL (SF 1103 or SF 1131) and the freight waybill (SF 1105 of SF 1133) are lost or destroyed, the carrier shall request from the issuing office a certified true copy of that office's memorandum copy (SF 1103-A or SF 1131-A) of the GBL. The issuing office shall make its certification regarding the services requested on the reverse of that copy and forward it to the carrier for certification of delivery and billing. Execution of the carrier's certificate of delivery on the substitute document is not required for charges billed under the exception procedures in § 101-41.312. If the lost GBL (original) or freight waybill (original) is recovered, the procedures in §§ 101-41.307-4 and 101-41.307-5, as applicable, shall be followed.

§ 101-41.308 Accountability for GBL's.

§ 101-41.308-1 Agency control.

Agencies shall maintain accountability records and physical control of GBL stock. Employees responsible for the issuance and use of GBL forms shall be held accountable for their disposition. GLB forms generally are serially numbered at the time of printing; no other numbering of the forms, including additions or changes to the prefixes or additions of suffixes, is permitted.

(a) Regular GBL assemblies are sequentially numbered with seven digits and an alphabetical prefix; e.g., A-0,000,001 through A-9,999,999, progressing to B, then C, etc.

(b) The transit GBL assemblies are sequentially numbered with six digits and a two-letter prefix, the second of which is always T; e.g., AT-000,001 through AT-999,999, then BT, CT, etc.

§ 101-41.308-2 Disposition of unused GBL's.

GBL forms spoiled in preparation, prepared for issuance but not used, or unusable for any other reason shall be canceled and returned to the accountable office. Those forms shall be disposed of in accordance with General Records Schedule 9, Travel and Transportation Records. (See § 101-11.404-2.)

§ 101-41.309 Factual support of charges.

§ 101-41.309-1 International shipments.

(a) *International ocean shipments.* Each bill submitted by a freight or household goods forwarder for the payment of transportation charges for the overseas movement of personal property (including household goods, personal effects, and, for civil agencies, privately owned vehicles) shall be supported by a copy of the ocean freight bill along with the GBL. Also, each bill submitted by an ocean carrier or freight forwarder for the payment of charges for the transportation of personal effects of officers and employees of the United States, furnished in whole or in part by a foreign-flag carrier, shall be supported by the authorizing official's certification of the necessity for the use of the foreign-flag carrier. (See 4 CFR 52.2.)

(b) *International air shipments.* (1) Each bill for the payment of international air freight transportation charges not involving the use of foreign-flag carriers shall be supported:

(i) For air carriers, with a carrier's certification that only U.S.-flag service was used or, in the absence of such certification, with a copy of the air waybill or manifest showing the underlying carriers utilized, and

(ii) For air freight forwarders, with a copy of the air waybill or manifest.

(2) Each bill submitted by an air carrier or air freight forwarder for the payment of international air freight transportation charges involving, in whole or in part, the use of foreign-flag carriers shall be supported by:

(i) A copy of the air waybill or manifest showing the underlying carriers utilized, and

(ii) A certification, adequately explaining the nonavailability of U.S.-flag service, signed by the responsible official of the authorizing agency or the carrier having knowledge of the facts concerning such usage.

§ 101-41.309-2 Motor carrier or freight forwarder destination storage in transit of household goods or mobile dwellings.

This § 101-41.309-2 applies only to shipments of household goods or mobile dwellings (including house trailers) forwarded for the account of the United States on GBL's. (See 49 CFR 1056.26 concerning collection of freight charges on household goods shipments involving loss or destruction in transit.)

(a) *Definition of carrier.* The term "carrier" as used in this section includes a motor carrier or a freight forwarder authorized by certificate or permit to operate as such in intrastate or interstate commerce.

(b) *Certifications.*

(1) Household goods or a mobile dwelling (including house trailer) shipped for the account of the United States may be placed in storage at destination for the account of the line-haul carrier and for ultimate delivery to the consignee or owner. Charges for transportation services from the point of pickup to the point of storage are payable to the delivering carrier, provided the covering GBL has been duly certified by the carrier's agent to show the following:

(i) The described household goods were placed in storage in ——— (Name of destination warehouse) at ——————— (City and State) on ——— (Date) *or* the described mobile dwelling (or house trailer) was placed in destination storage at ——————————— (Name and location of designated facility) on ——— (Date).

(ii) Such shipment will be permitted to remain there for a period of —— days or such shorter period as may meet the demand of the consignee or the property owner or the authorized agent or either;

(iii) The carrier transporting the shipment to the destination storage point assumes full carrier liability for the shipment during storage and until delivery to the property owner or his authorized agent within the designated storage period; and

(iv) Any payment to the carrier for transportation service from point of pickup to the point of destination storage is dependent upon ultimate delivery to the property owner or his authorized agent. The carrier agrees to return all or a portion of the payment to the United States when delivery to the property owner or his authorized agent cannot be accomplished because of complete or partial loss of the shipment within the Government-authorized storage period.

(2) If space for certification on the GBL is insufficient, the above certificate of liability, printed on plain paper and making reference to the GBL number, shall be attached to the GBL.

(3) The certificate may include a statement designating the warehouseman as an agent of the carrier with authority to receive payment in the name of the line-haul carrier for all storage-in-transit, delivery-out, and other applicable charges. A signed copy of the certificate shall be attached to the supplemental bill for such authorized billing. The supplemental bill, however, need not bear the carrier's original bill number.

(c) *Supplemental billing for accessorial charges.* SF 1113, Public Voucher for Transportation Charges, bearing the same bill number as the line-haul carrier's original bill plus a letter suffix; e.g., 12345-A, shall be used to bill any accessorial charges accruing at the point of destination not included in the line-haul carrier's original billing. The voucher shall identify the bill of lading and the tariff or quotation authority for the accessorial charges. The voucher shall be supported by a statement of services ordered and furnished, signed by or for the person who ordered the accessorial services, and by a statement signed by the property owner or his authorized agent, certifying receipt of the property at his residence and listing any loss or damage. The originals of those statements shall be used as support for accessorial charges.

§ 101-41.310 Billing and payment of freight and express transportation charges.

§ 101-41.310-1 Carrier billing forms.

Charges for freight or express transportation services furnished for the account of the United States, except those furnished under procedures set forth in § 101-41.304, shall be billed on SF 1113. Charges for freight or express transportation services shall be billed separately from passenger transportation charges. The SF 1113 (original) and one SF 1113-A (memorandum copy) shall be submitted to the billing office specified on the GBL. The carrier shall not be required to furnish more than one memorandum copy to the agency billed unless otherwise specifically authorized in advance by GSA. Also, a memorandum copy (SF 1113-A) shall not be substituted for the tear-off slip which shall be properly executed by the carrier preparing the SF 1113.

§ 101-41.310-2 Preparation of carrier billing forms.

(a) Instructions for the preparation of SF 1113, Public Voucher for Transportation Charges, are furnished in the GSA guide "How to Prepare and Process U.S. Government Bills of Lading," (national stock number 7610-00-682-6740). Agencies may obtain copies of this guide by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional Office providing support to the requesting activity. Copies are also available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

(b) The voucher format provides space for listing the complete serial number and amount of each attached subvoucher; e.g., GBL, but does not necessarily require descriptive details of services furnished. Each voucher generally should include as many subvouchers as can be listed when charges are billed to the same paying office, except as provided in §§ 101-41.305-3, 101-41.305-4, and 101-41.310-3.

(c) Carriers may use a facsimile signature of the carrier's certifying official or a machine-typed name of that official in the "Payees Certificate," provided the facsimile signature or machine-typed name is initialed by an authorized person.

§ 101-41.310-3 Separate billing for household goods shipments. [1]

Except for domestic shipments of crated household goods, charges for each household goods shipment shall be billed on a separate SF 1113, Public Voucher for Transportation Charges.

§ 101-41.310-4 Presentation and payment of carrier's bills.

Carrier's bills for transportation charges shall be subject to the standards for payment prescribed in Subpart 101-41.4

(a) Bills prepared as provided in § 101-41.310, excluding to the extent otherwise provided in §§ 101-41.304 or 101-41.312, are payable to:

(1) The last carrier or forwarder in privity with the contract of carriage as evidenced by the covering GBL;

(2) A participating carrier or forwarder in privity with the contract of carriage as evidenced by the covering GBL when the bill is submitted with a waiver accomplished by the last carrier (as described in paragraph (a)(1) of this section) in favor or the billing carrier;

(3) A carrier (as described in paragraph (a)(1) of this section) or its properly designated warehouse agent billing in the name of the carrier as authorized in § 101-41.309-2; or

(4) An agent of the carrier or forwarder (as described in paragraphs (a)(1) or (a)(2) of this section) provided the bill is submitted in the name of the principal. The agent's mailing address may be shown on those bills, and checks drawn in the name of the principal may be mailed to the agent.

(b) Any bill not in conformity with requirements outlined in this section shall be returned to the billing carrier with a statement of the reasons for nonpayment.

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[1] See Temporary Regulation G-44 in the appendix to Subchapter G for temporary changes to § 101-41.310-3.

§ 101-41.311 Reporting of carrier voluntary refunds.

Agencies shall report voluntary refunds (other than those described in § 101-41.305-3) of excess payments for freight or express charges to the General Services Administration (FZATR), Chester A. Arthur Building, Washington, D.C. 20406. Each report shall include the:

(a) GBL reference and amount of refund;

(b) Disbursing office (D.O.) voucher number, bureau voucher number, if any, date of payment, and D.O. symbol number assigned to the original payment; and

(c) Carriers names and bill number.

§ 101-41.312 Exception to usual billing and payment procedures.

(a) *Applicability.* Subject to the standards specified in Subpart 101-41.4, payment of transportation charges may be made to a carrier or forwarder in privity with the contract of carriage for unaccompanied baggage shipments by freight, for ocean carrier port-to-port shipments, or for international air shipments, without the billing carrier's certification of delivery: *Provided,* The carrier bills are not presented until 30 days after the shipment departs from point of origin. This does not, however, prevent a carrier from billing earlier on normal certification of delivery.

(b) *Limitations.* Payment on this presumption of delivery shall be subject to the limitations set forth in paragraphs (b) (1) through (3) of this section.

(1) Ocean shipments made for the account of the U.S. Government may, at the option of the agencies, move on GBL forms or commercial bill of lading forms or other commercial documents overprinted or stamped with the provision "THIS SHIPMENT IS MADE UNDER ALL TERMS AND CONDITIONS OF THE U.S. GOVERNMENT BILL OF LADING (EXCEPT AS TO CARRIER'S CERTIFICATION OF DELIVERY) AND IS SUBJECT TO THE TERMS AND CONDITIONS SET FORTH IN 41 CFR 101-41.302-3." Ocean carriers using commercial documents shall comply with any reasonable numbering system established by each involved agency for payment and accounting control of the commercial documents which need not be converted to GBL's.

(2) The date on which shipment departs from point of origin shall be shown on each carrier's bill. All billings shall be presented on SF 1113.

(3) When a bill is presented under the provisions of this § 101-41.312 by other than the delivering carrier, the billing carrier must submit with its bill or have on file with the paying office a blanket certificate as set forth below in order to protect the United States from duplicate payments and from the consequences of loss, damage, or shrinkage of the property shipped.

CERTIFICATE OF BILLING CARRIER IN LIEU OF WAIVER FROM DELIVERING CARRIER

In consideration of payment by the United States Government to the undersigned, for itself and all participating carriers, of charges billed on 30-day presumptive delivery for the transportation of property for the account of the United States under either U.S. Government bills of lading or commercial documentation, the undersigned agrees and guarantees to (1) make payment to all participating carriers of charges properly due them, (2) assume liability for any loss, damage, or shrinkage in connection with the shipments covered by said documents, notwithstanding that such loss, damage, or shrinkage may have occurred on the line or lines of participating carriers, and compensate the United States therefor, (3) refund promptly to the United States any amount found overcharged in connection with said shipments, and (4) refund promptly to the United States any charges paid to the undersigned which have been or may be paid by the United States directly to any other carrier participating in the movements covered by said bills of lading or commercial documentation.

____
(Name of billing carrier)

By ______________________________
(Authorized agent)

(c) *Agency procedures.* (1) Agencies using the facilities of dispatch agents, commercial forwarders, or carriers for the preparation of ocean shipping documentation shall establish procedures to ensure that the GBL provision set forth in § 101-41.312(b)(1) is inserted on the commercial bill of lading form or other commercial documents.

(2) Each affected agency shall also establish procedures to ensure that carrier bills covering transportation charges on the shipments specified in paragraph (a) of this § 101-41.312 are not paid before expiration of the 30-day presumptive delivery period, which in each case shall begin with the date on which the shipment departs from point of origin. However, the agency shall ensure that carrier bills presented in compliance with this 30-day requirement shall be processed as expeditiously as possible.

(3) Payments made under the provisions of § 101-41.312 are subject to adjustment, if otherwise proper, when the cargo is lost, damaged, or not delivered to the destination specified in the bill of lading contracts. Agencies shall make a diligent effort to collect all agency claims arising under the provisions of this section and shall report uncollected depths to the Claims Division, U.S. General Accounting Office, Washington, D.C. 20548.

§ 101-41.313 Availability of forms. [1]

§ 101-41.313-1 GBL forms.

(a) Agencies may obtain supplies of the individual snapout GBL sets by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office providing support to the requesting activity. Agencies having facilities for computer preparation of GBL's may order them in continuous fanfold format with pin-feed strips attached to the sides, but such forms must conform to all other specifications of the GBL, including overall size, wording, arrangement, color, construction, and grade of paper. Minor adjustments in spacing to accommodate differences in alignment of computer line printing are permissible, but all copies in the GBL set must register from part to part. Agency orders for continuous fanfold GBL's shall be executed and processed in accordance with § 101-26.302 of this chapter. The Region 3 Federal Supply Service of GSA maintains records of the serial numbers of all GBL and transit GBL assemblies furnished and the names and mailing addresses of the receiving agencies.

(b) An agency may order overprinting on the GBL forms to the extent of identifying the name, bureau or service, and address of the payment office; appropriation or fund chargeable; and name and title of the issuing officer and place of issue. No other overprinting on the GBL forms is permitted unless specifically approved in writing by the General Services Administration (FZA), Chester A. Arthur Building, Washington, D.C. 20406.

§ 101-41.313-2 Carrier billing form.

SF 1113, Public Voucher for Transportation Charges, which shall be used to bill freight transportation charges, is printed on 8½ by 11-inch white paper, with an added 8½ by 3³⁄₁₆-inch tear-off slip which generally is returned to the carrier with the check covering payment of the vouchered charges. (See § 101-41.803(b) for exception.) SF 1113-A, Public Voucher for Transportation Charges (Memorandum Copy), printed on yellow paper, is the same size as the original without the tear-off slip.

(a) Carriers may purchase SF 1113 and SF 1113-A from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402; or

(b) Carriers may have SF 1113 and SF 1113-A printed commercially. When printing these forms commercially, carriers shall insure that the forms conform to the exact size, wording, and arrangement of the approved Standard forms. While no minimum grade of paper is set, carriers shall provide a reasonable grade of paper stock. Carriers may have SF 1113 and SF 1113-A printed in continuous-feed format for machine billing by adding pin-feed strips on the margins. If necessary, the tear-off slip may be moved from the bottom to the right edge of SF 1113, but the tear-off slip must be perforated on all edges to measure 8½ by 3³⁄₁₆ inches when detached from the body of the SF 1113 and from the pin-feed strips. The forms must conform in all other respects to the exact size, wording, arrangement, etc., of the approved Standard forms.

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[1] See Temporary Regulation G-44 in the appendix to Subchapter G for temporary changes to § 101-41.313.

§ 101–41.314 Contracts and tenders.

§ 101–41.314–1 Contracts.

With the exception of contracts for local storage, drayage, and haulage (see § 101-41.304) and contracts entered into by the Military Sealift Command or the Military Airlift Command, a copy of each contract for freight or express transportation services, negotiated or otherwise, providing rates or charges shall be transmitted by agencies promptly upon execution to the General Services Administration (FZAT), Chester A. Arthur Building, Washington, D.C. 20406.

§ 101–41.314–2 Quotations and tenders.

Quotations or tenders made by or on behalf of common or contract carriers for freight or express transportation rates or services, including those authorized by section 22 of the Interstate Commerce Act, as amended (49 U.S.C. 22), shall be in written form. Three copies of each quotation or tender shall be promptly transmitted by administrative or negotiating agencies to GSA (FZAT).

§ 101–41.314–3 Procurement and billing of services under contract or tender.

Transportation services available under contract or tender shall be procured by use of a GBL. Each GBL shall bear reference to the applicable contract or tender, and the carrier shall bill the resultant charges on SF 1113.

Subpart 101–41.4—Standards for the Payment of Charges for Transportation Services Furnished for the Account of the United States

§ 101–41.400 Scope and applicability of subpart.

The regulations in this subpart set forth standards for the payment of charges for the transportation of persons or property for or on behalf of the United States.

§ 101–41.401 Payment upon presentation of bills.

(a) Section 322(a) of the Transportation Act of 1940, as amended (49 U.S.C. 66), provides that payment for the transportation of persons or property for or on behalf of the United States by any carrier or forwarder shall be made upon presentation of bills therefor and prior to audit by the Administrator of General Services or his designee. The payment of these bills shall, however, be contingent upon their timely presentation as required by the statute of limitations set forth in 49 U.S.C. 66.

(b) Provisions of Pub. L. 77-560, 56 Stat. 306 (31 U.S.C. 82g) relieve certifying and disbursing officers of liability for overpayments made for transportation furnished for the account of the United States on GLB's and GTR's when such overpayments are due to the use of improper transportation rates or classifications or to the failure to deduct proper amounts under agreements. However, agencies are not relieved of responsibility for:

(1) Making an administrative determination that the transportation services for which payment is claimed were duly authorized, that such services represent a legal obligation under the appropriation or fund involved, that the carrier's bill is complete and supported with required documentation, and that all extensions and computations of charges are correct; and

(2) Establishing procedures and controls to prevent duplicate payments and to recover any duplicate payments that may be made.

(c) Carrier bills deemed proper for payment as set forth in the foregoing paragraph shall be paid upon presentation and before confirmation of service satisfactorily performed, provided:

(1) For freight transportation (other than that excepted under § 101-41.312), the "Certificate of Carrier Billing for Charges" on the GBL has been properly executed by the carrier; and

(2) For passenger transportation, the proper ticket, coupon, or equivalent document covering the involved service has been furnished by the carrier in exchange for the GTR.

§ 101-41.402 Payment prior to Government confirmation of satisfactory service.

§ 101-41.402-1 Joint standards for advance payment of charges for transportation services.

Standards issued jointly by the Comptroller General of the United States and the Secretary of the Treasury (4 CFR Part 56) under the authority of 49 U.S.C. 66(c) prescribe the payment of carrier or forwarder charges for transportation services in advance of completion of service subject to limitations prescribed by the Administrator of General Services or his designee: *Provided,* The carrier or forwarder has issued the usual ticket, receipt, bill of lading, or equivalent document covering the service involved. The joint standards also place responsibility upon each agency that adopts procedures for the payment of charges for transportation services prior to Government confirmation of the satisfactory completion of such services to ensure that advance payments are not made to:

(a) An assignee bank or financial institution under the authority of 31 U.S.C. 203 and 41 U.S.C. 15;

(b) Payees who are in bankruptcy proceedings or are subject to the control of a receiver, trustee, or other similar representative;

(c) Payees who consistently fail to refund overcharges without assertion of substantial defense or other valid reasons when notified by GSA or any other interested Government agency;

(d) Payees who without good cause fail to make timely disposition or settlement of loss or damage or other claims asserted by agencies of the United States;

(e) Payees owing substantial sums of money to the United States for which no adequate arrangements for settlement have been made;

(f) Payees in such bad financial condition as to justify a determination that the Government's best interests require consideration of special payment rules for their account;

(g) Payees who do business with the United States infrequently and who previously have not been administratively approved for payment upon presentation of bills; or

(h) Any other person or business organization determined administratively for valid reasons to be ineligible for payment, unless, after review of the facts and in the absence of objection by the U.S. General Accounting Office, it is determined administratively that the best interests of the United States will not be jeopardized by such payment.

§ 101-41-402-2 Limitations on advance payment of charges for transportation services.

The payment of charges in advance of completion of service shall be limited to:

(a) Passenger transportation services procured through the use of cash as set forth in § 101-41.203-2; and

(b) Freight transportation services procured through the use of commercial forms and procedures as set forth in § 101-41-304-2.

Subpart 101-41.5—Claims by the United States Relating to Transportation Services

§ 101-41.500 Scope and applicability of subpart.

This subpart sets forth procedures applicable to the assertion of claims by the United States that arise out of freight and passenger transportation services furnished for the account of the United States, the consideration and disposition of protest thereto, and the collection and deposit of amounts due to the United States.

§ 101-41.501 Time limitations.

(a) A 3-year limitation applies on deductions of overcharges from amounts subsequently found due any carrier or forwarder. The term "overcharges" means charges for transportation services in excess of those applicable thereto under tariffs lawfully on file with Federal or State transportation regulatory agencies or under rates, fares, and charges established pursuant to section 22 of the Interstate Commerce Act, as amended (49 U.S.C. 22), or other equivalent contract, arrangement, or exemption from regulation. (See 49 U.S.C. 66.)

(b) A 3-year limitation generally applies on actions at law and on complaints filed with the Interstate Commerce Commission for the recovery of overcharges from carriers subject to the Interstate Commerce Act. (See 49 U.S.C. 16(3)(i), 304a(8), 908(f)(5), and 1006a(8).)

(c) A 2-year limitation applies on the filing of actions before the Federal Maritime Commission to recover overcharges by ocean carriers. (See 46 U.S.C. 821.)

§ 101-41.502 Examination of payments and initiation of collection action.

(a) *Examination of payments.* (1) Carrier bills and supporting documents which represent payments made by agency disbursing officers for freight and passenger transportation service shall be forwarded to the General Services Administration (FZATR), Chester A. Arthur Building, Washington, D.C. 20406, for audit examination in consideration of:

(i) The document ordering the services furnished, to determine the contractual basis upon which the rights of the Government and the carrier are based;

(ii) The pertinent tariffs, special or reduced rate quotations, contracts, or agreements, to determine the proper charge for the services rendered;

(iii) Decisions of the courts, regulatory bodies, and the Comptroller General affecting the rates, fares, and charges; and

(iv) Information furnished to GSA by transportation officers, travelers, or agencies.

(2) The General Services Administration is obligated to honor a carrier bill for charges properly due. However, GSA has a concurrent responsibility to question or disapprove that part of a payment to a carrier which is found to be unlawful or mathematically incorrect or which is not accompanied by documentary support establishing an obligation of the United States.

(b) *Collection by refund of amounts due the United States.* (1) A GSA notice of overcharge is issued when it is determined that a carrier has been paid a sum in excess of that proper for the services rendered. This notice sets forth the amount paid and the basis for the proper charge for each bill of lading or transportation request and cites applicable tariff references and other data relied upon to support the statement of difference. A separate notice of overcharge is stated for each bill of lading or transporation request and dispatched to the billing carrier.

(2) Carriers are requested to promptly refund amounts due the United States. Checks shall be made payable to the "General Services Administration" and mailed direct to the General Services Administration (FZAPA), Chester A. Arthur Building, Washington, D.C. 20406.

§ 101-41.503 Protests to notices of overcharge.

A carrier that disagrees with a notice of overcharge may protest by letter to the General Services Administration (FZAPA), Chester A. Arthur Building, Washington, D.C. 20406. Since each notice of overcharge is processed as a separate account receivable, the carrier shall use a separate letter for each overcharge notice being protested. The carrier shall present the basis for its protest and submit either the original or a legible copy of all documents substantiating its position. If the carrier believes that an amount less than that claimed on the notice of overcharge is properly due, it should promptly submit a check for the amount admittedly due, together with a full explanation of the reasons for believing the balance is not due. GSA will acknowledge receipt of each letter containing a substantive protest and upon completion of consideration will notify the carrier whether the overcharge determination has been sustained, amended, or canceled. Repetious letters of protest will not serve to preclude the collection of overcharges found properly due.

[42 FR 36672, July 15, 1977; 42 FR 41129, Aug. 15, 1977]

§ 101-41.504 Collection action by other means.

When a carrier fails to refund a transportation overcharge or protests the overcharge notice and GSA determines that the amount is still due the United States, GSA will effect collection by other means, as set forth in paragraphs (a) through (d) of this section.

(a) When GSA has an indebted carrier's claim against the Government on hand for direct settlement, GSA will apply all or any portion of the amount determined to be due the carrier on that claim to the overcharge.

(b) When the action outlined in paragraph (a) of this section cannot be taken, GSA will send a deduction form, fully identifying the debt item, to major Government disbursing offices requesting that the amount due the United States be deducted from an unpaid bill of the carrier.

(c) When collection cannot be effected through either of the above procedures, GSA will send a formal demand letter to the indebted carrier requesting payment of the amount due within a specified time. Lacking satisfactory response, GSA will place a complete stop order against amounts otherwise payable to the indebted carrier by placing the name of that carrier on the Department of the Army "List of Contractors Indebted to the United States."

(d) When actions to effect collection, as stated in the preceding paragraphs (a) through (c), are unsuccessful GSA generally reports the debt to the Department of Justice for its consideration of collection action, litgation, and related proceedings, as prescribed in 4 CFR Part 105.

§ 101-41.505 Deposit of collections resulting from transportation audit.

(a) Amounts collected by GSA to liquidate debts asserted in the audit of transportation accounts are generally deposited into the treasury of the United States as a credit to the appropriation or fund accounts against which the original payments were charged. When the accounts are not readily identifiable on the basic procurement documents, the collected amounts are deposited to miscellaneous receipts. Collections identified with certain Department of Defense activities are deposited to the appropriate military management fund rather than to the account from which the original payment was made.

(b) GSA informs agencies of the amounts and account symbol numbers when collections are credited to the original payment appropriations or funds or to the military management fund but does not inform agencies of collections deposited to miscellaneous receipts. GSA records credits by account symbol numbers only to the basic appropriation level and requires no explanation by agencies regarding subsequent expenditure of the credited moneys.

§ 101-41.506 Transportation debts administratively determined to be due the United States.

(a) Under the Federal Claims Collection Act of 1966 (31 U.S.C. 951-953), the Comptroller General of the United States and the Attorney General have joint responsibility for promulgating standards for the collection, compromise, termination, or suspension of collection action on any debts determined by administrative agencies to be due the United States. However, overcharges for unused passenger transportation services are subject to § 101-41.210. Regulations defining agency responsibilities for collecting amounts determined to be due the United States, establishing principles governing agency collection procedures, and prescribing procedures for reporting uncollectible debts to the General Accounting Office (GAO) or the Justice Department are found in 4 CFR Parts 101 through 105 and in Title 4, Claims-General, of the GAO Policy and Procedures Manual for Guidance of Federal Agencies.

(b) Agencies shall refer all administratively determined transportation debts involving loss and/or damage to property to: Claims Division, U.S. General Accounting Office, Washington, D.C. 20548.

(c) Agencies shall refer all administratively determined overcharges involving unused passenger transportation services (see § 101-41.210) to: General Services Administration (FZATR), Chester A. Arthur Building, Washington, D.C. 20406.

Subpart 101-41.6—Claims Against the United States Relating to Transportation Services

§ 101-41.600 Scope and applicability of subpart.

This subpart sets forth procedures applicable to the presentation, settlement, reconsideration, and review of claims against the United States relating to freight and passenger transportation services.

§ 101-41.601 Definition.

The word "claims" as used in this subpart includes:

(a) Requests by claimants for amounts not included in the original billing;

(b) Requests by claimants for amounts deducted or set off by the Government;

(c) Requests by claimants for amounts previously refunded by carriers; or

(d) Unpaid original bills requiring direct settlement by GSA, including those subject to doubt regarding the propriety of payment.

§ 101-41.602 Statutory limitations on filing of claims.

(a) 49 U.S.C. 66, as amended, imposes a limitation, generally 3 years, on the filing of claims cognizable by GSA when such claims involve charges for transportation within the purview of 49 U.S.C. 66, as amended. Claims in this category are those which involve transportation charges based on tariffs lawfully on file with Federal and State transportation regulatory agencies or which involve rates, fares, and charges established pursuant to section 22 of the Interstate Commerce Act, as amended (49 U.S.C. 22), or other equivalent contract, arrangement, or exemption from regulation.

(b) A claim must be received by GSA or its designee (the agency out of whose activities the claim arose) within 3 years (not including any time of war) from whichever is the latest of the following dates:

(1) Accrual of the cause of action thereon;

(2) Payment of charges for the transportation involved;

(3) Subsequent refund for overpayment of such charges; or

(4) Deduction made pursuant to 49 U.S.C. 66, as amended.

Claims for filing with the designee agency shall be sent to the payment office shown in the "Bill Charges To" box of the procuring document.

(c) It is imperative that each claim of a carrier or forwarder, whether filed with GSA or with its designee (the agency out of whose activities the transaction arose), be clearly stamped with the month, day, and year of receipt by GSA or the designee agency so that there will be no question regarding the filing date when the determination of compliance with the 3-year limitation imposed thereon by 49 U.S.C. 66 is made.

§ 101-41.603 Presentation of claims.

§ 101-41.603-1 Filing requirements for claimants.

Claims shall be presented in writing:

(a) Over the bona fide signature of the individual claimant or the claimant carrier's authorized official; or

(b) Over the signature of the claimant's agent or attorney accompanied by a duly executed power of attorney or other documentary evidence of the agent's or attorney's right to act for the claimant.

§ 101-41.603-2 Form of claims.

(a) Charges claimed for passenger or freight transportation services shall be billed on SF 1113, Public Voucher for Transportation Charges, in the manner prescribe in §§ 101-41.214 and 101-41.310. Those claims for an amount in addition to that originally paid to the carrier for the same service, or for an amount collected by GSA or by another agency shall be presented on SF 1113 in the form of a supplemental bill (claim) bearing the same number as the original bill but with an alphabetical suffix. An alphabetical sequence of suffixes shall be used for any additional supplemental bills. Generally only one supplemental bill shall be presented for all supplemental charges relating to the items paid on the original bill.

(b) Each supplemental bill shall cover charges relating to bills of lading or transportation requests paid on one original bill. However, if supplemental bills (claims) arise from asserted retroactive increases in charges or from currency fluctuations, GSA (FZA) will consider a carrier's written request for the single billing of such charges applicable to multiple original bills, if such request bears the concurrence of the agency's paying office.

(c) Claims supplemental to passenger transportation charges previously paid under the automatic payment system set forth in § 101-41.206 shall show the GTR number, ticket number, and period under which the original charges were paid.

[42 FR 36672, July 15, 1977; 42 FR 41129, Aug. 15, 1977]

§ 101-41.603-3 Documentation required for claim settlements.

(a) A claim is settled on the basis of the contract of carriage as evidenced by the bill of lading, transportation request, or other contractual agreement; the payment record; reports and information available to GSA and/or to the agency out of whose activities the transaction arose; and the written and documentary record submitted by the claimant. Oral presentations supplementing the written record are not acceptable.

(b) Settlements are founded on a determination of the legal liability of the United States under the factual situation disclosed by the record. The burden is on the claimant to establish the liability of the United States and the claimant's right to payment. Clear and detailed documentation by the claimant is essential to the claim settlement; bare assertions or conclusions are not acceptable.

§ 101-41.603-4 Where to file transportation claims.

(a) Claims involving collection actions resulting from the transportation audit performed by the General Services Administration must be filed direct with GSA (FZATM). All other transportation claims generally shall be filed with the agency out of whose activities they arose; if that is not feasible (e.g., where the responsible agency cannot be determined or is no longer in existence) they may be sent to GSA (FZATM) for forwarding to the responsible agency or for direct settlement by GSA's transportation audit office. Claims for GSA processing shall be addressed to the General Services Administration (FZATM), Chester A. Arthur Building, Washington, DC 20406.

(b) A claimant who disagrees with the action taken on his claim by the agency's payment office may request reconsideration or review of that action, provided he meets applicable time limitations. (See § 101-41.602 and Subpart 101-41.7.) The levels for progression of claims not disposed of to the satisfaction of the claimant are as shown in the following table.

Progressive Steps Available to Claimants Requesting Reconsideration or Review of Disputed Claims

Disputed claims involving—	Applicable to disputed claims filed with—	Agency action for reconsideration by—	Agency dispositive action for reconsideration or review by—
Deductions for loss or damage to property.	Agencies out of whose activities the claims arose.	Claims Division, U.S. General Accounting Office.[1].	Comptroller General of the United States.[2]
Other than loss or damage to property.	Agencies delegated authority to perform audit as GSA's designee. (See note.).	Head of agency delegated authority.	Comptroller General of the United States.[2]
	Agencies not delegated authority to perform audit as GSA's designee.	General Services Administration (FZAT).[3].	Administrator of General Services[4] or Comptroller General of the United States.[2]

NOTE: Authority to audit transportation bills was delegated effective Oct. 12, 1975, to the Department of State for bills paid at overseas offices and to the Department of Defense for bills paid at certain overseas offices and for bills paid by the Military Airlift Command for contract airlift services. Mailing addresses for those specifically named above as responsible for the reconsideration or review of transportation claims upon request of claimants are:

[1] Claims Division, U.S. General Accounting Office, Washington, D.C. 20548.

§ 101-41.604 Payment of transportation claims.

§ 101-41.604-1 Transportation claims payable by agencies.

Unless GSA (FZA) determines that GSA prepayment audit is necessary generally or in special cases, each agency or department shall pay any properly documented supplemental bill (claim) for freight or passenger transportation charges that is not barred by a statute of limitations, that does not involve a doubtful question, or that is not excepted by the provisions of § 101-41.604-2, provided the following guidelines are observed:

(a) The agency shall pay any supplemental bill (claim), regardless of amount, that involves accessorial freight services, such as switching, demurrage, detention, handling, icing; supplemental passenger transportation services, such as excess baggage, switching, sleeping or parlor car; and mathematical errors in items and/or totals on prior bills. The agency shall annotate each paid supplemental bill, other than a bill for air excess baggage charges, with the payment record on the related procuring Government bill of lading (GBL) or Government transportation request (GTR), including D.O. voucher number, bureau voucher number, date of payment, and D.O. symbol number.

(b) Each agency that retains machine-made reproductions; e.g., microfilm or microfiche, of its paid original transportation documents shall pay any supplemental bill involving changes in rates, weights, classifications, nomenclature of commodities, etc., (1) that is received within 2 years of the original payment date, (2) that does not exceed $200 per GBL or GTR, and (3) that does not involve a GBL or GTR on which a previous supplemental bill has been paid by the agency or forwarded to GSA for settlement. The agency shall support each paid supplemental bill with a copy of the original GBL or GTR, the voucher on which this original procuring document was paid, and all other pertinent attachments supporting the original payment. The agency need not reference the supplemental bill with the original payment data.

(c) The agency shall make an administrative examination of each supplemental bill to ensure that it is not a duplicate billing of a previous payment and that it is properly supported, presented in the name of the carrier to which the original charges were paid and in agreement with agency records concerning the amount previously paid.

(d) Claims paid in accordance with this § 101-41.604-1 shall be transmitted to GSA (FZATM) separately from other paid transportation documents submitted for audit.

§ 101-41.604-2 Transportation claims not payable by agencies.

(a) Agencies shall not pay claims for amounts administratively deducted from transportation payment vouchers in connection with loss and/or damage to property, but shall forward such claims to: Claims Division, U.S. General Accounting Office, Washington, DC 20548.

(b) Agencies shall not pay the following types of transportation claims:

(1) Any claim that is "time barred" by a statute of limitations as indicated in § 101-41.602 or any claim on which there is doubt as to whether it is "time barred."

(2) Any claim that refers to a GSA file number or to a previously paid amount which is not in agreement with the agency's record of prior payment.

(3) Any claim that involves inbound rail transit bills not properly certified to the effect that the tonnage is still on hand at the transit station.

(4) Any claim that is not payable under § 101-41.604-1(b) because the agency lacks reproducible photographic copies of the original payment documents.

(c) The transportation claims described in § 101-41.604-2(b), as well as any claims subject to doubt as to the

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[2] Comptroller General of the United States, U.S. General Accounting Office, Washington, D.C. 20548.

[3] General Services Administration (FZATM), Chester A. Arthur Bldg., Washington, D.C. 20406.

[4] Administrator of General Services, General Services Administration (FZA), Chester A. Arthur Bldg., Washington, D.C. 20406.

propriety of payment, will be handled by GSA under the provisions of § 101-41.605 and shall be forwarded separately from other types of transportation documents to the General Services Administration (FZATM), Chester A. Arthur Building, Washington, DC 20406. Agencies shall support each claim forwarded to GSA with:

(1) Appropriate certification of factual matters not considered in previous certifications;

(2) Administrative report of any pertinent information not previously furnished;

(3) Recommendation of the action to be taken;

(4) Citations to previous payments, if any, by reference to disbursing office (D.O.) voucher number, date of payment, and D.O. symbol number; and

(5) Citations to applicable appropriation or fund accounts. Administrative reports and recommendations are not required on claims for amounts collected by or through the efforts of GSA, but factual data that were not previously submitted shall be furnished.

(d) Agencies shall notify claimants of the dates on which their claims are forwarded to GSA but shall not inform them of administrative recommendations. Agencies need not take further administrative action but shall forward to GSA (FZATM) any materials subsequently received which relate to forwarded claims and shall furnish supplemental reports to GSA when requested.

§ 101-41.605 GSA processing of direct settlement claims.

§ 101-41.605-1 Acknowledgments.

Each claimant is informed of the number assigned to his claim upon its receipt in GSA. Claimants should withhold inquiries for at least 6 months after receipt of acknowledgments because inquiries merely delay settlement action on the claims.

§ 101-41.605-2 Processing claims certified for payment.

(a) GSA certifies each payable claim by use of a GSA Form 7931, Certificate of Settlement, and includes therein a complete explanation of any amount that is disallowed. GSA forwards the certificate to the agency whose funds are to be charged for processing and prompt payment and concurrently forwards an advance copy of the certificate to the claimant. When an amount of the settlement is to be set off to recover a debt due the United States from the carrier, the agency shall effect such action immediately to preclude the setoff from being barred by expiration of the applicable statutory time period. (See § 101-41.501.)

(b) An agency shall not revise or alter any GSA certificate of settlement except to indicate the appropriation symbol number applicable at the time of payment or to correct subsidiary accounting references relating to the stated appropriation or fund account. Alterations which will result in payment from a different appropriation or fund account or payment in an amount other than that originally stated on the certificate of settlement are not permitted. Any certificate of settlement that cannot be processed shall be immediately returned to GSA (FZAPA) with an explanation of the nonpayment.

(c) GSA forwards the original and four copies of each certificate of settlement to the agency by GSA Form 7933, Certificate of Settlement Transmittal, a copy of which shall be promptly receipted and returned to GSA (FZAPA). When a setoff amount is to be credited to the accounts of other agencies, GSA supplies additional copies of the certificate for the agencies whose accounts are to be credited. The agency shall take action to effect issuance of the check or checks and shall distribute the certificate of settlement as follows:

(1) Forward the original of the certificate, with the D.O. voucher number and date of payment stamped in the upper right corner, to GSA (FZATM). (The agency shall be responsible for preparing any required SF 1096, Schedule of Voucher Deductions.)

(2) Forward the claimant's notice copy to the payee with the settlement check.

(3) Forward a copy of the certificate to each agency whose accounts are to

be credited with a withheld amount, if any.

(4) Retain the remaining copies for internal fiscal records, including support for the disbursing officer's accounts.

(d) When the full amount certified for payment is set off, GSA forwards both the advance copy and the notice copy of the certificate to the claimant and forwards the original and fiscal copies to the agency for processing and return of the annotated original certificate to GSA (FZATM). However, when the setoff amount is to be charged and credited to the same appropriation or fund account, GSA retains the original of the certificate and sends only the fiscal copies to the agency.

§ 101-41.605-3 Disallowed claims.

When a claim is wholly disallowed, the claimant is furnished GSA Form 7932, Settlement Certificate, completely explaining the disallowance. One copy of the settlement certificate is furnished to the agency concerned.

§ 101-41.606 Effect of GSA claim settlements.

§ 101-41.606-1 Finality of action.

Claimants may request reconsideration or review of GSA transportation claim settlement actions as set forth in Subpart 101-41.7. However, with reference to agencies of the Federal Government, these settlement actions are the final administrative action. (See § 101-41.605-2(b).) A GSA claim settlement is not to be regarded as a precedent for agency determination of future payments by accountable or other adminstrative officers.

Subpart 101-41.7—Reconsideration and Review of General Services Administration Transportation Claim Settlements

§ 101-41.700 Protest to settlement action.

(a) A claimant who disagrees with the action taken upon his claim in GSA's transportation audit may write to the Administrator of General Services, General Services Administration (FZA), Chester A. Arthur Building, Washington, D.C. 20406, requesting reconsideration of the action. the letter shall identify the transaction and set forth in detail the legal, technical, or factual data or other information or documentation relied upon by the carrier to raise substantive doubt as to the correctness of the claim settlement.

(b) A claimant who disagrees with the claim settlement action taken by an agency authorized by GSA to perform the transportation audit may address his request for reconsideration to the head of that agency. Such request shall include all information as indicated in paragraph (a) of this section.

§ 101-41.701 Review by the Comptroller General of the United States.

(a) A claimant desiring a review of a transportation settlement action taken by GSA or by a designee agency may request review by the Comptroller General of the United States (4 CFR Part 53). "Settlement" means any final administrative action taken by GSA or by a designee agency in connection with the audit of payments for transportation and related services furnished for the account of the United States, including:

(1) Deduction from moneys otherwise due a carrier (or refund by carrier) to adjust asserted transportation overcharges;

(2) Disallowance, either in whole or in part, of a claim or a supplemental bill for charges for transportation and related services; or

(3) Any other action that entails finality of administrative consideration.

(b) A request for review shall be forever barred unless received in the General Accounting Office within 6 months (not including time of war) from the date the settlement action was taken or within the periods of limitation specified in 49 U.S.C. 66, as amended, whichever is later. The request should be addressed to the Comptroller General of the United States, U.S. General Accounting Office, Washington, DC 20548.

Subpart 101-41.8—Transportation Disbursement Procedures

§ 101-41.800 Scope and applicability of subpart.

This subpart sets forth procedures for processing documents to request issuance of checks covering freight and passenger transportation services furnished for the account of the United States, and related forms, and for forwarding disbursing officers' paid transportation accounts to the General Services Administration for audit in accordance with section 322 of the Transportation Act of 1940, as amended (49 U.S.C. 66).

§ 101-41.801 [Reserved]

§ 101-41.802 Standard forms for scheduling transportation vouchers for payment.

(a) The following Standard forms shall be used in connection with scheduling transportation vouchers for payment and audit:

(1) SF 1096, Schedule of Voucher Deductions.

(2) SF 1166, Voucher and Schedule of Payments (Original) (white paper).

(3) SF 1166-A, Voucher and Schedule of Payments (Memorandum) (yellow paper).

(4) SF 1167, Voucher and Schedule of Payments (Continuation Sheet) (Original) (white paper).

(5) SF 1167-A, Voucher and Schedule of Payments (Continuation Sheet) (Memorandum) (yellow paper).

(6) SF 1186, Transmittal for Transportation Schedules and Related Basic Documents.

(b) The procedures prescribed for preparation of SF 1166, Voucher and Schedule of Payments (Voucher-schedule), are applicable to all Federal agencies using the disbursing facilities of the Department of the Treasury. Other agencies may adopt these procedures following notification to General Services Administration (FZAT), Chester A. Arthur Building, Washington, D.C. 20406. The procedures prescribed for the use of SF 1166 apply also to SF 1166-A, SF 1167, and SF 1167-A.

(c) The procedures prescribed for SF 1186, Transmittal of Transportation Schedules and Related Basic Documents, are applicable to all Federal agencies required to send their transportation accounts to GSA for audit.

§ 101-41.803 Scheduling procedures.

(a) Agencies shall prepare a voucher-schedule (SF 1166) for all basic vouchers covering transportation services furnished for the account of the United States submitted by carriers in accordance with §§ 101-41.214 and 101-41.310. Transportation vouchers (SF 1113) shall be listed separately from all other types of payment vouchers. All information required for check issuance purposes must be included on the SF 1166. After certification by the authorized certifying officer, the voucher-schedule shall be transmitted to the appropriate disbursing office. The transportation vouchers shall be retained by the agency for later transmittal to GSA (FZATR) in accordance with § 101-41.807.

(b) Generally, the tear-off slips from the related basic transportation vouchers shall also be sent to the disbursing office for forwarding to the carrier-payees with the payment checks. Agencies using the Department of the Treasury disbursing facility may arrange with that facility for the production of punched cards bearing all information shown on the tear-off slips, which shall be sent to carrier-payees with the payment checks instead of the tear-off slips.

§ 101-41.803-1 Classification of basic transportation vouchers for purposes of separate scheduling.

(a) Basic transportation vouchers shall be sorted into three general classifications for separate listing on SF 1166:

(1) Vouchers for charges payable in U.S. currency;

(2) Vouchers for charges payable in foreign currency; and

(3) "No-check" vouchers requiring no accounting transaction by the disbursing or accounting office.

(b) Vouchers covering charges for intracity transit services; for local storage, drayage, and hauling services; or for small shipments not procured with GBL's as specified in § 101-41.304 shall not be handled as transportation vouchers but shall be listed on voucher-schedules covering payments for other than transportation charges. The terms "intracity" and "local" refer to services which are performed entirely within municipalities or contiguous commercial zones thereof and are not part of, or incident to, any arrangement for past or further transportation beyond the confines of these localities.

§ 101-41.804 Preparation of SF 1166, Voucher and Schedule of Payments.

§ 101-41.804-1 Assignment of schedule numbers.

Each SF 1166 covering transportation vouchers shall be assigned a schedule number, prefixed by the letter "T" and taken from a series of numbers running consecutively for each fiscal year. The "T" numbers assigned to transportation voucher-schedules shall be taken from a series of numbers separate from the series assigned to voucher-schedules covering nontransportation charges.

§ 101-41.804-2 Listing of items on SF 1166.

Each basic voucher shall be listed on a voucher-schedule with all information required for check issuance purposes. The maximum practicable number of items, consistent with normal spacing requirements shall be listed on each voucher-schedule page.

§ 101-41.804-3 Combining payments due a single payee.

If the amounts of two or more basic transportation vouchers due one payee can be combined in one check, the individual amounts shall be added and shown as one amount on the voucher-schedule, but the individual bureau voucher numbers (or schedule numbers individually identified by letter or number suffixes) must be listed separately in the voucher number column of the voucher-schedule. When the amounts of basic vouchers are combined into a single payment, an adding machine tape or facesheet listing the individual amounts shall be attached to the related group of basic vouchers.

§ 101-41.804-4 Name and address space.

Generally, the disbursing office draws checks only from information recorded on the SF 1166. Thus, except as provided in § 101-41.805, the information shown in the name and address column shall be complete (including ZIP codes) but shall be restricted to the information to be shown on the face of the check. Long addresses shall be avoided unless necessary for postal identification. The format and State abbreviations developed by the U.S. Postal Service for addressing envelopes shall be used.

§ 101-41.804-5 Amount column.

The amount for which the check is to be drawn shall be imprinted in the amount column on the same line as the payee's name. The total of the amount column on the SF 1166 must include all items listed on the continuation sheets and must agree with the aggregate of amounts classified by appropriation or fund in the appropriation summary block.

§ 101-41.804-6 Appropriation summary block.

In the summary block of the voucher-schedule, the total amount chargeable to each appropriation or fund shall be shown on the same line as the fund account symbol. A breakdown beyond the basic appropriation generally need not be shown. However, if required for administrative purposes, it shall be shown in the summary block as in the following example:

7563901	$1,020.00
(.001—$582.00)	
(.002—$438.00)	
7560271	250.00
7560262	400.00
Total	$1,670.00

§ 101-41.805 Scheduling specific types of transportation vouchers.

§ 101-41.805-1 No-check vouchers.

Basic transportation vouchers for which no checks are to be issued to the voucher-payee shall be assigned bureau voucher numbers and scheduled as follows:

(a) Vouchers requiring the processing of an accounting transaction for inclusion in the agency's SF 1220, Statement of Transactions According to Appropriations, Funds, and Receipt Accounts, or SF 1221, Statement of Transactions According to Appropriations, Funds, and Receipt Accounts (Foreign Service Account), or other approved reporting form, by transfer or without the issuance of a check shall be listed on SF 1166 covering transportation vouchers for which checks are to be used. Show the words "NO CHECK" in the amount column of SF 1166 opposite the payee's name and address. The amount shall be shown on SF 1096, Schedule of Voucher Deductions, as provided in § 101-41.805-2.

(b) Vouchers which do not require the processing of an accounting transaction by the disbursing or accounting office for inclusion in the agency's SF 1220 or SF 1221, or other approved reporting form, shall be scheduled separately. Such voucher-schedules shall be plainly marked "No-check vouchers." They shall not be submitted to disbursing officers for processing but shall be submitted with other transportation voucher-schedules to GSA (FZATR) for audit.

§ 101-41.805-2 Deductions from disbursement vouchers.

(a) When the payee of an approved basic voucher is not to receive the gross amount and a separate check must be drawn or a transfer made, SF 1096, Schedule of Voucher Deductions, shall be prepared for the amount or amounts of the voucher deductions. SF 1096 shall show, in addition to the data identifying the schedule by number, department, bureau, etc., the following:

(1) The related voucher number from which the deduction is made;

(2) Complete information regarding the purpose for which the voucher deduction is made;

(3) The symbol of the appropriation or other account to be credited; and

(4) The amount of the voucher deduction.

(b) When a deduction is made to recover an amount charged to an appropriation or fund account other than one to which the voucher carrying the deduction is chargeable, reference must be made to the disbursing office (station) symbol number and the voucher number on which the amount was overpaid. When the voucher-schedule contains more than one voucher deduction, a summary by appropriation or fund accounts of all voucher deductions must be made on the voucher-schedule, showing the symbol of each account creditable.

(c) When an amount is deducted from more than one basic voucher listed on an SF 1166, the agency shall take action as follows:

(1) Show the net amount payable to each payee in the amount column of the SF 1166;

(2) Record the total amount deducted as the last item in the address column of the SF 1166: "See attached SF 1096 No. —— $——.";

(3) List the deductions individually on an SF 1096; and

(4) Annotate the basic voucher "Paid in the amount of $——. See SF 1096 No. ——."

§ 101-41.805-3 Vouchers payable in foreign currency.

Disbursements to be made in a foreign currency shall be clearly indicated on the voucher-schedule by noting "Payable in (*name of currency*)" in the address column above the names and addresses of the payees. The individual amount due, expressed in the foreign currency, shall also be recorded in that column opposite each payee's name and adjacent to the amount column. The U.S. dollar equivalents shall be inserted in the amount column and in the appropriation summary block by the disbursing office.

§ 101-41.805-4 Certificate of settlement issued by the General Services Administration.

Procedures relating to payment based on GSA Form 7931, Certificate of Settlement, issued by GSA are outlined in § 101-41.605-2. In scheduling such certificates for payment, the original and the claimant's notice copy of the certificate of settlement shall be forwarded with the voucher-schedule to the disbursing office. After return of the original voucher-schedule by the disbursing office, the agency shall attach to it a copy of the related certificate of settlement.

§ 101-41.806 Processing of SF 1166.

§ 101-41.806-1 Makeup and initial distribution of forms.

Agencies shall prepare an original SF 1166 and at least four copies of the SF 1166-A. The original and three copies shall be forwarded to the appropriate disbursing office for payment processing.

§ 101-41.806-2 Information to be furnished by the disbursing office.

The disbursing office (D.O.) shall insert the D.O. voucher number in the upper right corner of each voucher-schedule (SF 1166) and clearly imprint within the PAID BY block the word "Paid"; the month, day, and year of payment; and the D.O. (station) symbol number. The disbursing office shall also list in the appropriate column opposite each payee's name the serial numbers of any checks issued in payment of the voucher.

§ 101-41.806-3 Disposition of forms after payment.

The disbursing office shall forward the payment check to the carrier-payee with pertinent tear-off slips (or punched cards bearing all information shown on the tear-off slips), retrun the original and two copies of the voucher-schedule to the issuing agency, and retain one copy of each voucher-schedule to support its statements of accountability. In distributing the accomplished voucher-schedule, the issuing agency shall use the original to support its statement of transactions (SF 1220 or SF 1221), retain a copy in its files, and forward a copy to GSA (FZATR) with the related basic transportation vouchers. (See § 101-41.807.)

§ 101-41.807 Identification and submission of transportation vouchers and supporting documents to GSA.

§ 101-41.807-1 Identification of basic transportation payment documents.

Each basic transportation voucher (SF 1113) and its related voucher-schedule (SF 1166) shall be cross-referenced by voucher number in a manner which enables positive association of one with the other.

(a) Each basic voucher must bear in the appropriate space a bureau voucher number which shall be assigned in sequence from a series of numbers independent of the schedule numbers. However, if the related schedule number is treated as a component part of the basic bureau voucher number, the bureau voucher number shall include a letter or number suffix. The basic voucher shall also show the schedule number of the related voucher-schedule.

(b) The basic voucher must bear in the appropriate spaces the D.O. voucher number assigned to the accomplished voucher-schedule, the D.O. symbol number, and the date of payment as shown in the PAID BY block of the voucher-schedule.

§ 101-41.807-2 Submission of transportation vouchers.

The following procedures are applicable to all agencies not specifically exempted from submitting their transportation accounts to GSA.

(a) Each month, after the statement of transactions (SF 1220 or SF 1221) has been accomplished. the basic transportation vouchers and supporting documents, with the carbon copies of related voucher-schedules placed on top, shall be securely bound with cord or tape and forwarded promptly to the General Services Administration (FZATR), Chester A. Arthur Building, Washington, D.C. 20406.

(b) Each shipment of transportation vouchers shall be made under a covering SF 1186, Transmittal for Transportation Schedules and Related Basic Documents, which shall be included in the package identified as number 1. If receipt is desired; a copy of SF 1186 with an addressed return envelopment must be furnished. SF 1186 must be executed and submitted for each accounting period; if no disbursements for transportation services were made during the period, the form should be so annotated.

(c) The shipping cartons used for transmitting voucher shipments to GSA shall not exceed 15 inches long, 12 inches wide, and 10 inches deep. These dimensions are specified under national stock number 8115-00-290-3379 for cartons used to ship documents to Federal Records Centers.

(d) The cover or container of each package shall include the following information:

From: Name and address of transmitting office. Period of account, Disbursing office symbol number. Package number —— of ——.

To: General Services Administration (FZATR), Chester A. Arthur Building, Washington, D.C. 20406.

§ 101-41.807-3 Transportation vouchers withheld or delayed.

Transportation vouchers and related documents delayed or withheld from the appropriate accounting submission shall be properly identified and submitted under separate cover by the agency. In no case shall they be filed and transmitted with transportation vouchers for subsequent periods.

§ 101-41.808 Agency stations.

§ 101-41.808-1 New or discontinued agency stations.

Agencies shall notify the General Services Administration (FZAPA), Chester A. Arthur Building, Washington, D.C. 20406, whenever a new or existing agency station is authorized to prepare voucher-schedules for transportation services or when an agency station is no longer so authorized. This notice shall show the name and station location of the bureau or office and the date on which its authority to schedule payments for transportation services was granted or discontinued.

Subparts 101-41.9—101-41.48 [Reserved]

Subparts 101-41.49—Illustrations of Forms

§ 101-41.4900 Scope of subpart.

This subpart illustrates forms prescribed or available for use in connection with subject matter covered in other subparts of Part 101-41.

§ 101-41.4901 Standard forms.

(a) The Standard forms are illustrated in this section to show their text, format, and arrangement and to provide a ready source of reference. The subsection numbers in this section correspond to the Standard form numbers.

(b) The Standard forms illustrated in § 101-41.4901 may be obtained by Government agencies and carriers as provided in §§ 101-41.202-5 and 101-41.313.

§ 101-41.4901-1103 Standard Form 1103, U.S. Government Bill of Lading (Original).

(a) Page 1 of Standard Form 1103

(b) Page 2 of Standard Form 1103.

§ 101-41.4901-1103-A Standard Form 1103-A, U.S. Government Bill of Lading (Memorandum Copy).

§ 101-41.4901-1103-B Standard Form 1103-B, U.S. Government Bill of Lading (Memorandum Copy—Consignee).

(a) Page 1 of Standard Form 1103-B.

(b) Page 2 of Standard Form 1103-B.

§ 101-41.4901-1104 Standard Form 1104, U.S. Government Bill of Lading (Shipping Order).

§ 101-41.4901-1105 Standard Form 1105, U.S. Government Freight Waybill (Original).

§ 101-41.4901-1106 Standard Form 1106, U.S. Government Freight Waybill (Carrier's Copy).

§ 101-41.4901-1109 Standard Form 1109, U.S. Government Bill of Lading Continuation Sheet (Original).

§ 101-41.4901-1109-A Standard Form 1109-A, U.S. Government Bill of Lading Continuation Sheet (Memorandum Copy).

§ 101-41.4901-1109-B Standard Form 1109-B, U.S. Government Bill of Lading Continuation Sheet (Memorandum Copy—Consignee).

§ 101-41.4901-1110 Standard Form 1110, U.S. Government Bill of Lading Continuation Sheet (Shipping Order).

§ 101-41.4901-1111 Standard Form 1111, U.S. Government Freight Waybill Continuation Sheet (Original).

§ 101-41.4901-1112 Standard Form 1112, U.S. Government Freight Waybill Continuation Sheet (Carrier's Copy).

§ 101-41.4901-1113 Standard Form 1113, Public Voucher for Transportation Charges (Original).

§ 101-41.4901-1113-A Standard Form 1113-A, Public Voucher for Transportation Charges (Memorandum Copy).

§ 101-41.4901-1131 Standard Form 1131, U.S. Government Transit Bill of Lading (Original).

(a) Page 1 of Standard Form 1131.
(b) Page 2 of Standard Form 1131.

§ 101-41.4901-1131-A Standard Form 1131-A, U.S. Government Transit Bill of Lading (Memorandum Copy).

§ 101-41.4901-1131-B Standard Form 1131-B U.S. Government Transit Bill of Lading (Memorandum Copy—Consignee).

(a) Page 1 Standard Form 1131-B.
(b) Page 2 Standard Form 1131-B

§ 101-41.4901-1132 Standard Form 1132, U.S. Government Transit Bill of Lading (Shipping Order).

§ 101-41.4901-1133 Standard Form 1133, U.S. Government Transit Freight Waybill (Original).

§ 101-41.4901-1134 Standard Form 1134, U.S. Government Freight Waybill (Carrier's Copy).

§ 101-41.4901-1169 Standard Form 1169, U.S. Government Transportation Request (Original).

(a) Page 1 Standard Form 1169.
(b) Page 2 Standard Form 1169.

§ 101-41.4901-1169-A Standard Form 1169-A, U.S. Government Transportation Request (Memorandum Copy).

(a) Page 1 Standard Form 1169-A.
(b) Page 2 Standard Form 1169-A.

§ 101-41.4901-1170 Standard Form 1170, Redemption of Unused Tickets.

(a) Page 1 Standard Form 1170.
(b) Page 2 Standard Form 1170.

§ 101-41.4901-1172 Standard Form 1172, Certificate in Lieu of Lost U.S. Government Transportation Request.

§ 101-41.4901-1186 Standard Form 1186, Transmittal for Transportation Schedules and Related Basic Documents.

§ 101-41.4902 GSA forms.

(a) The GSA forms are illustrated in this section to show their text, format, and arrangement. The subsection numbers in this section correspond with the GSA form numbers.

(b) The GSA forms illustrated in this section are stocked, completed, and issued only by the Central Office of GSA and are not availagle to other Government agencies or to carriers and forwarders.

§ 101-41.4902-7931 GSA Form 7931, Certificate of Settlement (Original).

§ 101-41.4902-7931-1 GSA Form 7931, Certificate of Settlement (Claimant's Notice in Advance of Payment).

§ 101-41.4902-7931-2 GSA Form 7931, Certificate of Settlement (Claimant's Notice).

§ 101-41.4902-7932 GSA Form 7932, Settlement Certificate.

§ 101-41.4902-7933 GSA Form 7933, Certificate of Settlement Transmittal.

(a) Page 1 of GSA Form 7933.
(b) Page 2 of GSA Form 7933.

APPENDIX TO SUBCHAPTER G—TEMPORARY REGULATIONS

[EDITORIAL NOTE: The following is a list of temporary regulations, except delegations of authority, which relate to Federal property management and are in effect as of the revision date of this volume]

FPMR Temp. Reg.	Subject	Expires	FR Publication
G-38	Requirement for reporting transportation payment data.	Oct. 1, 1981	43 FR 54636, Nov. 22, 1978
G-38, Supp. 1	......do	Feb. 28, 1983	44 FR 61963, Oct. 29, 1979
G-40	Required use of standard carrier alpha codes on Standard Form 1113, public voucher for transportation charges.	Feb. 28, 1983	44 FR 13024, Mar. 9, 1979 46 FR 17564, Mar. 19, 1981
[1] G-44	Addition of Standard Form 1203, U.S. Government Bill of Lading—Privately owned personal property.	Apr. 1, 1982	45 FR 58122, Sept. 2, 1980
[1] G-45	Use of cash to procure emergency transportation services costing more than $100.	Apr. 1, 1982	46 FR 23742, Apr. 28, 1981

[1] These temporary regulations appear in full text below.

[FPMR TEMP. REG. G-44]

ADDITION OF STANDARD FORM 1203, U.S. GOVERNMENT BILL OF LADING—PRIVATELY OWNED PERSONAL PROPERTY, TO FEDERAL PROPERTY MANAGEMENT REGULATIONS PART 101-41

1. *Purpose.* This regulation prescribes the use of a new Government bill of lading when shipping privately owned personal property, unaccompanied baggage, and mobile homes for the account of the United States.

2. *Effective date.* This regulation became effective April 1, 1980.

3. *Expiration date.* This regulation expires on April 1, 1982.

4. *Applicability.* This regulation applies to Department of Defense activities procuring transportation services for the aforementioned commodities by Government bills of lading for the account of the United States. The new form prescribed herein may be used by other Federal agencies.

5. *Background.* The General Services Administration is authorized to prescribe Standard forms and procedures pertaining to payments for transportation services furnished for the account of the United States (4 CFR 51.2). Standard Form 1103, U.S. Government Bill of Lading, is used in most instances to document the transportation of property for the account of the United States, and is the supporting document for billing, paying, and auditing the resulting charges. Use of SF 1203, U.S. Government Bill of Lading—Privately Owned Personal Property, when shipping privately owned personal property, unaccompanied baggage, and mobile homes, will reduce the use of SF 1103.

6. Description and distribution of SF 1203. Standard Form 1203, U.S. Government Bill of Lading—Privately Owned Personal Property, is a nine-part form and will be available in either snap-out or computer pin-feed formats. Distribution of the individual parts of SF 1203 will be the same as that for SF 1103 except for the memorandum copy-consignee (property owner), SF 1203B, which shall be furnished to the consignee (property owner) by the orgin carrier or its agent at the time of pickup of the shipment.

7. *Availability of forms.* Standard Form 1203, U.S. Government Bill of Lading—Privately Owned Personal Property, prescribed

by this regulation, will be listed in the GSA Supply Catalog. Government agencies may obtain these forms by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office providing support to the requesting activity.

8. *Billing for household goods shipments.* Standard Form 1203 and SF 1103, Government Bill of Lading, shall not be billed on the same SF 1113, Public Voucher for Transportation Charges.

9. *Effect on other directives.* When the provisions of this regulation conflict with policies and procedures in § 101-41.302-2, § 101-41.310-3, and § 101-41.313, or other GSA regulations and related directives, the provisions of this regulation will govern.

RAY KLINE,
Acting Administrator of General Services.

[45 FR 58122, Sept. 2, 1980]

[FPMR Temp. Reg. G-45]

April 3, 1981.

USE OF CASH TO PROCURE EMERGENCY PASSENGER TRANSPORTATION SERVICES COSTING MORE THAN $100

1. *Purpose.* This regulation provides policy and procedures revising § 101-41.203-2 to allow the use of cash for the procurement of emergency transportation services costing more than $100 instead of using Standard Form 1169, U.S. Government Transportation Request (GTR).

2. *Effective date.* This regulation is effective upon publication in the FEDERAL REGISTER.

3. *Expiration date.* This regulation expires on April 1, 1982, unless sooner revised or superseded.

4. *Applicability.* This regulation applies to heads of all Government agencies that are subject to the audit authority of GSA under 31 U.S.C. 244.

5. *Background.* The General Services Administration has authority for the audit and adjustment of payments to carriers and forwarders furnishing transportation for the account of the United States and for prescribing uniform procedures and transportation-related forms governing the accounting of these payments. SF 1169, U.S. Government Transportation Request (GTR), is used for the procurement of passenger transportation services. However, § 101-41.203-2 grants to agencies the option of requiring travelers to use cash instead of GTR's where the passenger transportation services cost more than $10 but do not exceed $100 for each authorized trip.

6. *Revised policy and procedures.*

a. The policy and procedures in § 101-41.203-2(a) are amended by adding, after the last sentence, the following:

"Under emergency circumstances, where the use of GTR's is not possible, heads of agencies, or their designated representatives, may authorize travelers to exceed the $100 limitation when procuring passenger transportation services. To justify the use of cash in excess of $100 instead of GTR's when procuring passenger transportation services, both the Government agency head, or his or her designated representative, and the traveler shall certify on the travel voucher the reasons for this use. In the absence of specific authorization or approval, the traveler shall be responsible for all additional costs involved for this travel, such as the use of foreign-flag carriers, first-class travel, or more costly modes. The traveler should bear in mind the fact that currently there are many Government discount fares and contract fares, only obtainable through the use of a GTR.

"(1) Delegation of authority for authorizing and approving the use of cash in excess of $100 for the procurement of emergency transportation services shall be held to as high an administrative level as practicable to ensure adequate consideration and review of the circumstances. These delegations of authority shall be made in writing and copies retained to permit monitoring of the system. These records of delegations of authority shall be available for examination by GSA auditors."

"(2) Authorization for the use of cash in excess of $100 for procurement of passenger transportation services shall be made before the actual travel unless emergency situations make advance authorization impossible. If advance authorization cannot be obtained, the traveler shall obtain written approval from the agency head, or his or her designee, at the earliest practicable time."

b. Section 101-41.203-2(c) is amended by adding, after the last sentence, the following:

"Travel vouchers shall be maintained in the agency to be available for site audit by GSA auditors. General Records Schedule 9, Travel and Transportation Records (see § 101-11.404-2), provides instructions for the disposal of these travel vouchers."

7. *Effect on other directives.* When the provisions of this regulation are in conflict with other regulations and related directives, the provisions of this regulation will govern. FPMR Temporary Regulation G-43 (45 FR 56807, Aug. 26, 1980) is canceled and deleted from the appendix at the end of Subchapter G in 41 CFR Chapter 101.

RAY KLINE,
Acting Administrator of General Services.

[46 FR 23743, Apr. 28, 1981]

SUBCHAPTER H—UTILIZATION AND DISPOSAL

PART 101-42—PROPERTY REHABILITATION SERVICES AND FACILITIES

Sec.
101-42.000 Scope of part.
101-42.001 Definitions.
101-42.001-1 Maintenance.
101-42.001-2 Repair.
101-42.001-3 Rehabilitation.
101-42.001-4 Reclamation.

Subpart 101-42.1—Sources of Property Rehabilitation Services

101-42.100 Scope of subpart.
101-42.101 General.
101-42.102 GSA term contracts for services.
101-42.102-1 Mandatory source provisions.
101-42.102-2 Requests for waivers.
101-42.102-3 Optional use provisions.
101-42.102-4 Contract administration.

Subpart 101-42.2—Property Rehabilitation Services Performed by Federal Facilities

101-42.200 Scope of subpart.
101-42.201 Federal repair facilities.
101-42.202 Establishment, continuation, or expansion of repair facilities.
101-42.203 Notifications.

Subpart 101-42.3—Recovery of Precious Metals and Critical Materials

101-42.300 Scope of subpart.
101-42.301 General.
101-42.301-1 Guidelines for conducting agency surveys and reporting to GSA.
101-42.302 Recovery of silver from used hypo solution and scrap film.
101-42.302-1 Agency responsibility.
101-42.302-2 General guidelines for the recovery of silver from used hypo solution.
101-42.302-3 General guidelines for the recovery of silver from scrap film.
101-42.302-4 Detailed guidelines for recovery of silver from used hypo solution and scrap film.
101-42.303 Recovery and utilization of precious metals through the Defense Precious Metals Recovery Program.
101-42.303-1 Recovery of precious metals through the Defense Property Disposal Precious Metals Recovery Office (DPDM-R).
101-42.303-2 Utilization of DOD-recovered precious metals as Government furnished materials (GFM) in Federal procurements.

Subpart 101-42.4—101-42.48—[Reserved]

Subpart 101-42.49—Illustrations of Forms

Sec.
101-42.4900 Scope of subpart.
101-42.4901 Standard forms.
101-42.4901-291 Standard Form 291, Report of Activities Generating Precious Metals.

AUTHORITY: Sec. 205(c) 63 Stat. 390; 40 U.S.C. 486(c).

SOURCE: 34 FR 11494, July 11, 1969, unless otherwise noted.

§ 101-42.000 Scope of part.

This part prescribes the policies and procedures governing the use by executive agencies of GSA term contracts, Federal Prison Industries, Inc., and Workshops for the Blind and Other Severely Handicapped for the maintenance, repair, rehabilitation, and reclamation of personal property and for the operation of facilities performing such services located within the United States, the Commonwealth of Puerto Rico, the Commonwealth of Northern Marianas, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands. Military weapons systems, specialized technical and scientific equipment are exempt from this part.

[43 FR 26575, June 21, 1978]

§ 101-42.001 Definitions.

For the purposes of this Subchapter H the following terms shall have the meanings set forth in this section.

[41 FR 22268, June 2, 1976]

§ 101-42.001-1 Maintenance.

"Maintenance" means the scheduled cleaning, servicing, and adjustment necessary to keep an article in a serviceable or satisfactory operating condition.

[41 FR 22268, June 2, 1976]

§ 101-42.001-2 Repair.

"Repair" means the restoration of an article to a serviceable and/or operable condition.

[41 FR 22268, June 2, 1976]

§ 101-42.001-3 Rehabilitation.

"Rehabilitation" means the restoration, reconditioning, renovation, or repair of serviceable/unserviceable or operable/inoperable articles to a near new condition. The word "rehabilitation" is also used in a generic sense to encompass services covered by this Part 101-42.

[41 FR 22268, June 2, 1976]

§ 101-42.001-4 Reclamation.

"Reclamation" means the recovery from articles of personal property of precious metals or critical materials having intrinsic value.

[41 FR 22268, June 2, 1976]

Subpart 101-42.1—Sources of Property Rehabilitation Services

§ 101-42.100 Scope of subpart.

This subpart prescribes the policies and procedures for obtaining maintenance, repair, rehabilitation, and reclamation services.

[45 FR 27764, Apr. 24, 1980]

§ 101-42.101 General.

GSA regional property rehabilitation organizational elements assist agencies in furthering maximum utilization of personal property by providing maintenance, repair, rehabilitation, and reclamation services. These services are made available through contracts with commercial firms, and through agreements with the National Industries for the Blind, the National Industries for the Severely Handicapped, and Federal repair facilities such as those operated by Federal Prison Industries, Inc. The services provided are primarily for domestic application but may be utilized to provide support for foreign assistance programs.

(a) The GSA Supply Catalog is published by the Federal Supply Service, GSA, to indicate sources of supply and services provided by GSA for the use of Federal agencies, including property rehabilitation type service contracts. The GSA Supply Catalog is issued in accordance with Subpart 101-30.6.

(b) GSA regional Federal Supply Service offices periodically issue bulletins to heads of Federal agencies to provide information concerning GSA service support for the maintenance, repair, rehabilitation, and reclamation of Government-owned personal property.

(c) GSA regional Federal Property Resources Service offices periodically survey Federal agencies within specific areas to obtain estimates of agency maintenance and repair needs for the coming year. To assist GSA in providing appropriate contract coverage at a reasonable cost, Federal agencies shall provide as accurate information as possible in response to these surveys.

(d) A Federal agency may request in writing that GSA develop sources of services, evaluate contractor capabilities, and conduct surveys or studies to justify establishing term contracts for services not available at the time the needs arise.

[34 FR 11494, July 11, 1969, as amended at 39 FR 44753, Dec. 27, 1974; 43 FR 26575, June 21, 1978; 45 FR 27764, Apr. 24, 1980]

§ 101-42.102 GSA term contracts for services.

(a) GSA regional Federal Supply Service offices establish term contracts; prepare and issue term contract price schedules on a zonal, regional, or other area basis; and perform contract administration.

(b) Agency offices may be placed on a distribution list to receive term contracts in the form of price schedules applicable within specified areas upon request to the GSA regional Federal Supply Service office administering the contracts.

(c) Term contract price schedules are published in catalog style and list services available from contractors named therein. Notices of changes in the price schedules are furnished all agency offices receiving the schedules.

[43 FR 26575, June 21, 1978, as amended at 45 FR 27764, Apr. 24, 1980]

§ 101-42.102-1 Mandatory source provisions.

GSA term contracts shall be used as the primary source for meeting executive agencies' requirements in the areas of maintenance, repair, rehabilitation, and reclamation of personal property, to the extent provided for in these contracts. These term contracts and covering price schedules are mandatory for agencies in the geographic areas designated. However, existing contracts to which those agencies are parties at the time the term contracts become effective will continue in effect until completion of these existing contracts.

[45 FR 27764, Apr. 24, 1980]

§ 101-42.102-2 Requests for waivers.

When an agency determines that services available from an existing term contract will not fill its needs, a request to waive the mandatory usage requirement shall be submitted for approval to the appropriate GSA regional Director, Personal Property Division, Federal Property Resources Service. This request shall specify the quantities involved, describe the difference between the services required and those listed in the term contract, and give the reasons why the services will not meet the requirements. Agencies shall not initiate action to procure similar services from non-GSA sources until a request for a waiver has been approved. Waivers are not required in the case of public exigencies.

[45 FR 27765, Apr. 24, 1980]

§ 101-42.102-3 Optional use provisions.

GSA term contracts contain provisions whereby, in addition to the agencies included under the mandatory source provision, all agencies and activities of the Federal Government, including the legislative and judicial branches, and other activities for which GSA is authorized by law to procure may place orders under these contracts.

[45 FR 27765, Apr. 24, 1980]

§ 101-42.102-4 Contract administration.

(a) Unless otherwise specified, agency activities using a GSA term contract as prescribed in this Subpart 101-42.1 shall have primary responsibility for the administration of purchase orders placed under the contract and shall deal directly with the contractor concerned as prescribed in § 101-26.403. This responsibility includes placing orders, making payments, and inspecting and accepting or rejecting the services performed. A using activity may also make price adjustments for non-conforming services or require the correction of these services when appropriate. It may terminate one or more purchase orders (but not the entire contract) for default when warranted, and charge the contractor with any resulting excess costs from obtaining replacement services, according to the provisions of the applicable price schedule. The GSA regional Federal Property Resources Service office shall be notified of any price adjustments, corrections, or purchase order terminations for default. Procedures for these contract administration functions are explained in further detail in the term contract price schedules described in § 101-42.102(a), (b), and (c).

(b) GSA regional Federal Property Resources Service offices will provide the overall administration of service contracts prescribed in this subpart. Specifically, GSA will serve as liaison, when necessary, between the contractor and using activities and assist in resolving any issues that arise concerning contract performance. GSA will assist in expediting orders when needed and ensure compliance with contract requirements through periodic visits to contractor facilities and the sampling of using activity evaluations. GSA will also be responsible for termination of a service contract when warranted.

[45 FR 27765, Apr. 24, 1980]

Subpart 101-42.2—Property Rehabilitation Services Performed by Federal Facilities

§ 101-42.200 Scope of subpart.

This subpart prescribes the policies and procedures governing executive agency in-house repair facilities.

§ 101-42.201 Federal repair facilities.

Each agency shall evaluate, periodically, its in-house repair and reclamation facilities to determine if it is more economical to use established GSA sources as shown in § 101-42.101.

§ 101-42.202 Establishment, continuation, or expansion of repair facilities.

The establishment, continuation, or expansion of in-house commercial type repair and reclamation facilities shall be governed by the criteria set forth in Office of Management and Budget Circular No. A-76, Revised.

[38 FR 3046, Feb. 1, 1973]

§ 101-42.203 Notifications.

(a) Each executive agency shall furnish, if it has not already done so, to the appropriate GSA regional office serving that agency, information as to each Government-owned facility operated by it for the repair, maintenance, rehabilitation, or reclamation of personal property. Such information shall include the type of facility, personnel complement, capability, and geographical area served. Information as to Department of Defense facilities will pertain only to reconditioning or depot maintenance facilities for nonmilitary equipment.

(b) Before establishing or substantially expanding facilities for repair, maintenance, rehabilitation, or reclamation of personal property, agencies shall furnish specific details of the proposal to the General Services Administration (FW), Washington, D.C. 20406. The details should include type of facility, personnel complement, capability, and geographical area to be served so that the proposal may be evaluated against existing contracts and facilities. Information regarding Department of Defense facilities will pertain only to reconditioning or depot maintenance facilities.

[34 FR 11494, July 11, 1969, as amended at 39 FR 44753, Dec. 27, 1974]

Subpart 101-42.3—Recovery of Precious Metals and Strategic and Critical Materials

SOURCE: 44 FR 28664, May 16, 1979, unless otherwise noted.

§ 101-42.300 Scope of subpart.

This subpart prescribes the policy and procedures for recovery of precious metals and strategic and critical materials from articles of excess personal property.

§ 101-42.301 General.

GSA is responsible for the initiation of Government-wide precious metals and strategic and critical materials recovery programs, and for the issuance and administration of applicable contracts, except those issued and administered by the Department of Defense (DOD) for precious metal recovery and refinement operations. Situations will occur where, in terms of economy, efficiency, and environmental quality, it is in the best interest of the Government to recover precious metals and strategic and critical materials from articles of excess personal property instead of using other methods of disposal. GSA will determine when Government-wide recovery is appropriate on the basis of an evaluation of the supply-demand factor, the price of the commodity, the cost of recovering the precious metal or strategic and critical material, and applicable guidelines or regulations on pollution control. Precious metals that may be designated for recovery are gold, silver, and metals in the platinum group. Examples of silver-bearing scrap and waste include used photographic fixing (hypo) solution, photographic and X-ray film, silver alloys, and dental scrap. Strategic and critical materials, lists of which may be issued from time to time as provided in § 101-14.106, also may be designated for recovery.

§ 101-42.301-1 Guidelines for conducting agency surveys and reporting to GSA.

Each agency having activities that generate silver or other precious metals (including used hypo solution, scrap film, and other precious-metal-bearing scrap) shall survey each of those activities to obtain information regarding precious metals recovery and potential recovery and shall submit a consolidated semiannual report (based on fiscal year) on that information to the General Services Administration (DPR), Washington, DC 20406. The consolidated report shall be submitted within 45 calendar days after the end of each half fiscal year reporting period. Each agency shall designate an individual to be responsible for coordinating the surveys, implementing and improving recovery procedures, monitoring the recovery programs, and submitting the consolidated report to GSA. Section 101-42.4901-291 illustrates Standard Form 291, Report of Activities Generating Precious Metals (interagency report control number 1529-GSA-SA). The report shall contain specific information regarding the types of silver or other precious-metal-bearing scrap processed or generated; the number of activities generating silver or other precious-metal-bearing scrap and quantity generated; the estimated amounts potentially recoverable and method of estimation; the number of activities recovering precious metals from the scrap and quantity generated; the amount of precious metals recovered in troy ounces; the type of recovery equipment and method of disposition of recovered silver; the method of disposal if precious metals are not recovered; the explanation for any lack or recovery; the agency estimate of dollar savings for the report period; and any actions planned to maximize recovery.

[45 FR 36399, May 30, 1980]

§ 101-42.302 Recovery of silver from used hypo solution and scrap film.

Heads of executive agencies shall be responsible for establishing, maintaining, and pursuing a program for silver recovery from used hypo solution and scrap film.

§ 101-42.302-1 Agency responsibility.

Each agency shall consider recovering silver regardless of the quantity of used hypo solution or scrap film generated. Installation of a silver recovery unit consistent with the quanitity of used hypo solution generated or storage of used hypo solution or scrap film until a processable quantity is obtained are two alternatives. If an activity generates small quantities of hypo solution and tests show that there is a minimal amount of silver per gallon of solution, arrangements should be made with another activity in the area, which is using a recovery unit, to receive and process its used hypo solution to the extent feasible. When consolidation with other activities is not practicable and information and assistance with regard to recovery techniques are required, the GSA regional office serving the area or the Defense Logistics Agency (DLA) (in accordance with § 101-42.303) should be contacted. If it is determined that the silver cannot be recovered economically by Government-owned equipment or by a commercial recovery contractor, the solution or scrap film should be disposed of in accordance with Part 101-45 and in an environmentally acceptable manner.

§ 101-42.302-2 General guidelines for the recovery of silver from used hypo solution.

The basic factors that determine the potential quantity of recoverable silver are: (a) The amount of used hypo solution generated; (b) the amount and type of film processed; and (c) the physical layout of the photographic facility. Since these factors may vary for each activity, a single method of recovery cannot be prescribed. Used hypo solution should be processed to recover the maximum amount of silver from the solution, consistent with overall economic feasibility and environmental considerations. Recovery can be effected either by Government-owned equipment or through use of commercial recovery contracts. Metallic replacement or electrolytic methods may be used. Various types of recovery equipment are available which permit economic silver recovery from both large and small quantities of used hypo solution.

§ 101-42.302-3 General guidelines for the recovery of silver from scrap film.

Scrap film, the silver content of which varies according to the type of film and degree of exposure, is a source for recovery. A common method of recovery is periodic disposal of accumulated film by sale in accordance with Part 101-45. Another method of recovering silver is through the destruction of scrap film by burning and reducing it to ash, which can provide economy through savings in transportation costs as well as the conservation of the silver. This must be done by controlled burning without an open flue. Recovery onsite by this method should be accomplished only at those activities or installations where adequate facilities exist and the local code on burning permits it.

§ 101-42.302-4 Detailed guidelines for recovery of silver from used hypo solution and scrap film.

Detailed guidelines and economic criteria for evaluating silver recovery potential and establishing recovery programs are contained in the GSA pamphlet "Guide for the Recovery of Silver from Used Fixing Solution and Scrap Film" (FPMR 101-42.3), copies of which may be obtained from GSA regional offices or from agency publications liaison officers.

§ 101-42.303 Recovery and utilization of precious metals through the Defense Precious Metals Recovery Program.

Civilian agencies may utilize the Defense Precious Metals Recovery Program as prescribed in this § 101.42.303.

§ 101-42.303-1 Recovery of precious metals through the Defense Property Disposal Precious Metals Recovery Office (DPDM-R).

Civilian agency activities which generate precious-metal-bearing scrap may utilize DPDM-R, which is a part of DLA. Accumulations of precious-metal-bearing scrap such as silver-cell batteries, missile and electronic parts, silver turnings, dental scrap, film scrap, and silver sludge recovered from used hypo solution, should be reported by letter to the Chief, Defense Property Disposal Precious Metals Recovery Office, Naval Weapons Station, Earle, Colts Neck, NJ 07722, with a request for shipping instructions. Shipping instructions will be furnished the activity by the DPDM-R within 30 calendar days following receipt of the request. Participating civilian agencies are entitled to requisition refined precious metals for use as Government-furnished material (GFM) to reduce new procurement costs in accordance with § 101-42.303-2. For additional information or recovery assistance, DLA may be contacted at the following address: DOD Precious Metals Recovery Program Manager, Attn: DLA-SIP, Cameron Station, Alexandria, VA 22314.

§ 101-42.303-2 Utilization of DOD-recovered precious metals as Government-furnished materials (GFM) in Federal procurements.

To determine the need for recovered precious metals as GFM to reduce new procurement costs, each agency shall review procurements for which precious metals will be required by a contractor. Each agency having requirements for refined precious metals as GFM should submit a request to the Commander, Defense Industrial Supply Center, Attn: DISC-ODBA/YC, 700 Robbins Avenue, Philadelphia, PA 19111. Each agency requesting precious metals under the DOD precious metals recovery program shall also contribute any generated accumulations of silver, gold, platinum, and the platinum group metals (i.e., palladium, iridium, rhodium, osmium, ruthenium) to DPDM-R in accordance with § 101-42.303-1. Normally, the amount of precious metals authorized for sale to individual civilian agencies will not be restricted, except in those instances when the precious metal involved is not available in sufficient quantities to satisfy all requirements. No minimum ordering quantity is prescribed. Requiring activities will contact DISC to assure asset availability prior to the requisitioning of any quantity of precious metal other than silver. Advance inquiry for silver should be made only when requirements exceed 5,000 troy ounces. There is a nominal charge for the refined precious metals to cover the administrative and processing costs; however, such costs are substantially lower than the current market price of precious metals.

Subparts 101-42.4-101-42.48—[Reserved]

Subpart 101-42.49—Illustrations of Forms

§ 101-42.4900 Scope of subpart.

This subpart illustrates forms prescribed or available for use in connection with subject matter covered in this Part 101-42.

[45 FR 36399, May 30, 1980]

§ 101-42.4901 Standard forms.

(a) Standard forms are illustrated in this section to show their text, format, and arrangement and to provide a ready source of reference. The subsection number in this section corresponds with the Standard form number.

(b) The Standard forms illustrated in this section may be obtained by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office providing support to the requesting activity. The requisition for Standard Form 291 should include the national stock number 7540-02-075-8167.

[45 FR 36399, May 30, 1980]

§ 101-42.4901-291 Standard Form 291, Report of Activities Generating Precious Metals.

(a) Page 1 of Standard Form 291.

(b) Page 2 of Standard Form 291.

(c) Page 3 of Standard Form 291.

NOTE: The form illustrated in this § 101-42.4901-291 is filed with the original document and does not appear in this volume.

[45 FR 36399, May 30, 1980]

PART 101-43—UTILIZATION OF PERSONAL PROPERTY

Sec.
101-43.000 Scope of part.
101-43.001 Definitions.
101-43.001-1 Nuclear Regulatory Commission-controlled materials.
101-43.001-2 Combat materiel.
101-43.001-3 Contractor inventory.
101-43.001-4 Controlled substances.
101-43.001-5 Excess personal property.
101-43.001-6 Executive agency.
101-43.001-7 Federal agency.
101-43.001-8 Foreign excess personal property.
101-43.001-9 Holding agency.
101-43.001-10 Inspection.
101-43.001-11 Intangible personal property.
101-43.001-12 Materiel.
101-43.001-13 [Reserved]
101-43.001-14 Personal property.
101-43.001-15 Possessions.
101-43.001-16 Related personal property.
101-43.001-17 Salvage.
101-43.001-18 Scrap.
101-43.001-19 Screening period.
101-43.001-20 Surplus personal property.
101-43.001-21 Surplus release date.
101-43.001-22 Trust territory.
101-43.001-23 Typewriters.
101-43.001-24 United States.

Subpart 101-43.1—General Provisions

101-43.101 Surveys.
101-43.102 Reassignment of property within executive agencies.
101-43.102-1 Acquisition of office furniture.
101-43.103 Agency utilization officials.

Subpart 101-43.2—[Reserved]

Subpart 101-43.3—Utilization of Excess

101-43.301 Federal Government procedure.
101-43.302 Agency responsibility.
101-43.303 Suspension of procurement.
101-43.303-1 Acquisition of mercury.
101-43.304 Retention of custody.
101-43.305 Strategic and critical materials; excess related personal property.
101-43.306 Property not required to be reported.
101-43.307 Legislative and judicial Federal agencies.
101-43.308 Assistance in emergency and major disaster relief.
101-43.309 Controlled substances.
101-43.310 [Reserved]
101-43.311 Reporting requirements.
101-43.311-1 Reporting.
101-43.311-2 Form and distribution of reports.
101-43.311-3 Typewriters.
101-43.311-4 Excess personal property on or within excess real property.
101-43.311-5 Property at installations due to be discontinued.
101-43.312 Exceptions to reporting.
101-43.313 Items requiring special handling.
101-43.313-1 Controlled substances.
101-43.313-2 Printing, binding, and blankbook equipment and supplies.
101-43.313-3 Intangible property.
101-43.313-4 Conditional gifts.

Sec.
101-43.313-5—101-43.313-6 [Reserved]
101-43.313-7 Nuclear Regulatory Commission-controlled materials.
101-43.313-8 Drugs, biologicals, and reagents other than controlled substances.
101-43.313-9 Shelf-life items.
101-43.313-10 Medical shelf-life items held for national emergency purposes.
101-43.313-11 Nonappropriated fund property.
101-43.313-12 Noncertified electronic products.
101-43.314 Withdrawals and corrections.
101-43.314-1 Withdrawals.
101-43.314-2 Corrections.
101-43.315 Transfers of excess property.
101-43.315-1 Agencies eligible.
101-43.315-2 Information of availability.
101-43.315-3 Fair value reimbursement.
101-43.315-4 Transfer for redistribution.
101-43.315-5 Procedure for effecting transfers.
101-43.315-6 Report on condition and description.
101-43.316 Contractor inventory.
101-43.316-1 Utilization.
101-43.317 Costs and proceeds.
101-43.317-1 Cost of care and handling.
101-43.317-2 Proceeds.
101-43.318 Determination of excess as surplus.
101-43.318-1 Reportable property.
101-43.318-2 Nonreportable property.
101-43.318-3 Donation and sale of surplus property.
101-43.319 Use of excess property on cost-reimbursement type contracts.
101-43.320 Use of excess property on grants.
101-43.321 Certification of non-Federal agency screeners.

Subpart 101-43.4—[Reserved]

Subpart 101-43.5—Utilization of Foreign Excess Personal Property

101-43.500 Scope of subpart.
101-43.501 Federal Government policy.
101-43.502 Suspension of procurement.
101-43.503 Holding agency responsibilities.
101-43.504 Screening and selection.
101-43.505 Assistance to ordering agencies.
101-43.506 Payment of costs.
101-43.507 Statistics and reports.
101-43.508 Donation availability.

Subparts 101-43.6—101-43.46—[Reserved]

Subpart 101-43.47—Reports

101-43.4700 Scope of subpart.
101-43.4701 Performance reports.

Subpart 101-43.48—Exhibits

Sec.
101-43.4800 Scope of subpart.
101-43.4801 Excess personal property reporting requirements.
101-43.4802 Regional offices addresses and assigned areas.
101-43.4803 List of Government corporations (31 U.S.C. 846, 856).
101-43.4804 Demilitarization codes and related instructions.

Subpart 101-43.49—Illustrations of Forms

101-43.4900 Scope of subpart.
101-43.4901 Standard forms.
101-43.4901-120 Standard Form 120, Report of Excess Personal Property.
101-43.4901-120A Standard Form 120A, Continuation Sheet (Report of Excess Personal Property).
101-43.4901-120-1 Instructions for preparing Standard Form 120.
101-43.4901-121 Standard Form 121, Annual Report of Utilization and Disposal of Excess and Surplus Personal Property.
101-43.4901-121-1 Instructions for preparing Standard Form 121.
101-43.4901-122 Standard Form 122, Transfer Order Excess Personal Property.
101-43.4901-365 Standard Form 365, Annual Report—Disposal of Foreign Excess Property.
101-43.4902 GSA forms.
101-43.4902-1539 GSA Form 1539, Request for Excess Personal Property.
101-43.4902-1539-1 Instructions for preparing GSA Form 1539.
101-43.4902-2946 GSA Form 2946, Screener's Identification.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

SOURCE: 29 FR 16012, Dec. 1, 1964, unless otherwise noted.

§ 101-43.000 Scope of part.

This part prescribes the policies and methods governing the economic and efficient utilization of personal property located within and outside the United States, the Commonwealth of Puerto Rico, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands, except that Subpart 101-36.3 prescribes the policies and procedures governing the worldwide reutilization of excess automatic data processing equipment and supplies by the Federal Government. Excess automatic data processing supplies and support equipment in Federal Supply Classification class 7045 with a unit original acquisition cost of $1,500 or less shall be made available for transfer in accordance with this Part 101-43.

[44 FR 55376, Sept. 26, 1979]

§ 101-43.001 Definitions.

For the purpose of this Subchapter H the following terms shall have the meanings set forth in this section.

[41 FR 22269, June 2, 1976]

§ 101-43.001-1 Nuclear Regulatory Commission-controlled materials.

"Nuclear Regulatory Commission-controlled materials" means those materials the possession, use, and transfer of which are subject to the regulatory controls of the Nuclear Regulatory Commission (NRC) pursuant to the Energy Reorganization Act of 1974. The materials are defined as follows:

(a) "Byproduct material" means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material. (See 10 CFR Part 30.)

(b) "Source material" means (1) uranium or thorium, or any combination thereof, in any physical or chemical form or (2) ores which contain by weight one-twentieth of 1 percent (0.05 percent) or more of (i) uranium, (ii) thorium, or (iii) any combination thereof. Source material does not include special nuclear material. (See 10 CFR Part 40.)

(c) "Special nuclear material" means (1) plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which NRC, pursuant to the provisions of the Energy Reorganization Act of 1974, determines to be special nuclear material, but does not include source material or (2) any material artificially enriched by any of the foregoing. (See 10 CFR Part 70.)

[41 FR 22269, June 2, 1976]

§ 101-43.001-2 Combat materiel.

"Combat materiel" means arms, ammunition, and implements of war listed in currently effective designations (22 U.S.C. 1934).

[41 FR 22269, June 2, 1976]

§ 101-43.001-3 Contractor inventory.

"Contractor inventory" means any property acquired by and in the possession of a contractor or subcontractor (including Government furnished property) under a contract pursuant to the terms of which title is vested in the Government, and in excess of the amounts needed to complete full performance under the entire contract; and any property which the Government is obligated or has the option to take over under any type of contract as a result either of any changes in the specifications or plans thereunder or of the termination of the contract (or subcontract thereunder), prior to completion of the work, for the convenience or at the option of the Government.

[41 FR 22269, June 2, 1976]

§ 101-43.001-4 Controlled substances.

"Controlled substances" means: (a) Any narcotic, depressant, stimulant, hallucinogenic drug, or any other drug or other substance or immediate precursor included in Schedules I, II, III, IV, or V of section 202 of the Controlled Substances Act (21 U.S.C. 812) except exempt chemical preparations and mixtures and excluded substances listed in 21 CFR Part 1308;

(b) Any other drug or substance which the Attorney General determines to be subject to control pursuant to Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970; or

(c) Any other drug or substance which by international treaty, convention, or protocol is to be controlled by the United States.

[41 FR 22269, June 2, 1976]

§ 101-43.001-5 Excess personal property.

"Excess personal property" means any personal property under the control of any Federal agency which is not required for its needs and the discharge of its responsibilities, as determined by the head thereof.

[41 FR 22269, June 2, 1976]

§ 101-43.001-6 Executive agency.

"Executive agency" means any executive department or independent establishment in the executive branch of the Government, including any wholly owned Government corporation.

[41 FR 22269, June 2, 1976]

§ 101-43.001-7 Federal agency.

"Federal agency" means any executive agency or any establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, and the Architect of the Capitol and any activities under his direction).

[41 FR 22269, June 2, 1976]

§ 101-43.001-8 Foreign excess personal property.

"Foreign excess personal property" means any excess personal property located outside the States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands.

[41 FR 22269, June 2, 1976]

§ 101-43.001-9 Holding agency.

"Holding agency" means the executive agency which has accountability for the property involved.

[41 FR 22269, June 2, 1976]

§ 101-43.001-10 Inspection.

"Inspection" means the critical examination of material to verify quantity, determine condition, or to compare actual characteristics with those given in applicable specifications. The term includes laboratory analyses and other technical testing operations which may be required.

[41 FR 22269, June 2, 1976]

§ 101-43.001-11 Intangible personal property.

"Intangible personal property" means personal property which includes but is not limited to such classes of personal property as patents, patent rights, processes, techniques, inventions, copyrights, negotiable instruments, money orders, bonds, shares of stock, and similar evidences of value, except as, in a given case or class of cases, may be excluded by the Administrator of General Services.

[41 FR 22269, June 2, 1976]

§ 101-43.001-12 Materiel.

"Materiel" means any item necessary for the equipment, maintenance, operation, and support of governmental activities without distinction regarding its use for administrative or operational purposes.

[41 FR 22269, June 2, 1976]

§ 101-43.001-13 [Reserved]

§ 101-43.001-14 Personal property.

"Personal property" means property of any kind or any interest therein, except real property, records of the Federal Government, and naval vessels of the following categories: Battleships, cruisers, aircraft-carriers, destroyers, and submarines.

[41 FR 22269, June 2, 1976]

§ 101-43.001-15 Possessions.

"Possessions" includes the Virgin Islands, the Canal Zone, Guam, American Samoa, Wake Island, Midway Island, and the Guano Islands, but does not include the Commonwealth of Puerto Rico.

[41 FR 22269, June 2, 1976]

§ 101-43.001-16 Related personal property.

"Related personal property" means personal property which is located on or is an integral part of real property, or used or useful in connection with such property or the productive capacity thereof, or determined by the Administrator of General Services to be otherwise related to the real property.

[41 FR 22269, June 2, 1976]

§ 101-43.001-17 Salvage.

"Salvage" means personal property that has some value in excess of its basic material content but which is in such condition that it has no reasonable prospect of use for any purpose as a unit (either by the holding or other

Federal agency), and its repair or rehabilitation for use as a unit is clearly impracticable. Repairs or rehabilitation estimated to cost in excess of 65 percent of acquisition cost would be considered "clearly impracticable" for purposes of this definition.

[41 FR 22270, June 2, 1976]

§ 101-43.001-18 Scrap.

"Scrap" means personal property that has no value except for its basic material content.

[41 FR 22270, June 2, 1976]

§ 101-43.001-19 Screening period.

"Screening period" means the calendar period of time measured, in the case of reportable excess personal property, from the day following receipt of a report, as prescribed by § 101-43.311-2, in the appropriate GSA office, or in the case of nonreportable excess personal property, from the day following the date of the determination by the holding agency that the property is available for screening as excess, to and including the day of the surplus release date.

[41 FR 22270, June 2, 1976]

§ 101-43.001-20 Surplus personal property.

"Surplus personal property" means any excess personal property not required for the needs and the discharge of the responsibilities of all Federal agencies, as determined by the Administrator of General Services.

[41 FR 22270, June 2, 1976]

§ 101-43.001-21 Surplus release date.

"Surplus release date" means the predetermined date on which Federal utilization screening of excess personal property is terminated, and the property is considered available for disposition as surplus. The date signifies the transition of the property from excess to surplus status. In some publications concerned with personal property management procedures, the words "Automatic Release Date" or "ARD" are used to designate this date.

[41 FR 22270, June 2, 1976]

§ 101-43.001-22 Trust territory.

"Trust territory" means the Trust Territory of the Pacific Islands, which the United States administers pursuant to the trusteeship agreement approved by the President of the United States pursuant to the Act of July 18, 1947 (48 U.S.C. 1681 note).

[41 FR 22270, June 2, 1976]

§ 101-43.001-23 Typewriters.

"Typewriters" means the manually and electrically operated machines having standard or special keyboards designed to produce printed characters by impression of type upon paper through the medium of an inked ribbon. It includes the Vari-Typer, Hektowriter, proportional spacer, Flexowriter, Justowriter, and portable type machines but does not include bookkeeping, billing, or teletype machines.

[41 FR 22270, June 2, 1976]

§ 101-43.001-24 United States.

"United States" means in the geographical sense all the 50 States and the District of Columbia.

[41 FR 22270, June 2, 1976]

Subpart 101-43.1—General Provisions

§ 101-43.101 Surveys.

Each executive agency shall continuously survey property under its control to assure maximum use and shall promptly make property that is excess to its needs available for transfer in accordance with this Part 101-43.

§ 101-43.102 Reassignment of property within executive agencies.

Each executive agency shall, to the maximum extent feasible, reassign property within activities of the agency, including its cost-reimbursement type contractors, as described in § 1-3.405 of this title, when such property is determined to be no longer required for the purpose of the appropriation from which it was purchased or the use to which it has been applied, and shall immediately discontinue procurement of items for which such property can be substituted or adapted. An annual report of such internal property reassignments shall be submitted in duplicate to GSA within 60 calendar days after the close of each fiscal year on Standard Form 121, Annual Report of Utilization and Disposal of Excess and Surplus Personal Property. This report conforms with the provisions of FPMR 101-11.11 and has been assigned Interagency Report Control Number 0015-GSA-AN. Section 101-43.4901-121 illustrates Standard Form 121 and § 101-43.4901-121-1 provides instructions for its preparation.

[42 FR 40847, Aug. 12, 1977]

§ 101-43.102-1 Acquisition of office furniture.

Office furniture shall be purchased only after agency compliance with the reassignment requirements in this section and applicable replacement standards. Items should then be obtained from GSA stock or through Federal Supply Schedules pursuant to Part 101-26.

[43 FR 26576, June 21, 1978]

§ 101-43.103 Agency utilization officials.

To promote the maximum utilization of excess personal property, agencies are requested to name national and regional utilization officials who will be responsible, among other things, for promoting the acquisition and profitable use of available excess. It is suggested that wherever possible, the responsibility for training personnel concerned directly or indirectly with the acquisition and use of excess be given to these utilization officials.

Subpart 101-43.2—[Reserved]

Subpart 101-43.3—Utilization of Excess

§ 101-43.301 Federal Government procedure.

The first source of supply is excess personal property, which should be utilized by agencies to the fullest extent practicable, as prescribed in this Part 101-43. Any need for personal property expressed by any Federal agency (including the Senate, the House of Representatives, the Architect of the Capitol and any activities under his direction, the District of Columbia, and mixed-ownership corporations as defined in the Government Corporation Control Act) shall be paramount to any disposal, if such need is made known to the holding agency prior to shipment or delivery in the case of donation, or is made known to the holding or selling agency prior to actual removal of the property from Government control in the case of sale.

[33 FR 17298, Nov. 22, 1968]

§ 101-43.302 Agency responsibility.

(a) To obtain maximum utilization and to minimize the procurement of new items, each executive agency shall be responsible for making excess property available and facilitating the transfer of the property to other Federal agencies, to cost-reimbursement type contractors, and to the organizations specified in § 101-43.315. The transfer of excess property to a cost-reimbursement type contractor shall be made only by the agency administering the contract. Each executive agency shall, to the maximum extent practicable, fulfill its requirements for property, including those of its cost-reimbursement type contractors, by obtaining excess from other Federal agencies instead of initiating a new procurement. Agencies receiving or transferring excess personal property shall establish controls over the processing of transfer orders and shall establish and maintain an adequate system of property accountability.

(1) Before procuring new property, careful and receptive consideration shall be given to the use of known usable excess property of a similar type, including the possibility of substitution or adaptation of excess items not identical with requested items, whether the excess items are unused, rehabilitated, or in used condition, and regardless of whether the intended new procurement would be from GSA stock or other sources of supply. Executive agencies shall accept, to the fullest extent practicable, the reason-

able substitution of such excess property instead of new procurement.

(2) GSA will assist agencies in meeting their requirements for property of the types excepted from reporting as excess by this Part 101-43. Federal agencies requiring such property should contact the appropriate GSA regional office as indicated in § 101-43.4802. GSA area utilization officers, stationed at key military excess generating points throughout the United States, screen and offer nonreported personal property as it becomes available for transfer.

(b) To implement the policy for maximum use of excess personal property as outlined in paragraph (a) of this § 101-43.302, the regional offices of GSA will screen all requests for replenishment of stock and direct delivery purchase requests submitted by executive agencies against lists of excess personal property available in their regions. GSA may take physical custody of such excess personal property for redistribution or may direct its transfer to executive agencies instead of procurement of new property from commercial sources of supply. If the excess property is used, rehabilitated, or differs in some substantial characteristic from the item ordered, notice of intent to substitute will be given the ordering agency to permit the agency the opportunity to inspect the property before shipment.

(1) GSA may take physical custody of such excess personal property for redistribution, or may direct its transfer to executive agencies in lieu of procurement of new property from commercial sources of supply. If the excess property is used, rehabilitated, or differs in some substantial characteristic from the item ordered, notice of intent to substitute will be given the ordering agency to permit such agency the opportunity to inspect the property prior to shipment.

(c) Acceptance of excess property under the above circumstances shall be required unless the using agency submits a full and convincing written justification that such transfers or substitutions would result in serious hardship or impairment to its operations programs.

(d) Part 101-27 prescribes standards for executive agencies in computing inventory levels. To encourage the use of excess property which might otherwise be disposed of as surplus, inventory levels may be adjusted upward when items of stock are to be acquired from excess sources. Such adjustments should be tempered by caution and arrived at after careful analysis which gives consideration to the factors set forth in Part 101-27 and in this Part 101-43. Generally, acquisitions of items for inventory from excess shall not exceed a two years' supply except when:

(1) A greater quantity is needed to meet known requirements for an authorized planned program.

(2) The item is not available without special manufacture and a predictable requirement exists.

(3) Administrative determination has been made that in application of the EOQ principle of stock replenishment within an agency an inventory level in excess of two years is appropriate for low dollar-volume items.

(4) The items are being transferred into authorized stock funds for resale to other Government agencies.

(5) In addition, the following conditions should be met prior to acquisition of excess:

(i) There must be a predictable requirement for an authorized program.

(ii) The cost of acquisition, including packing and shipping, carrying in inventory, and preservation shall not exceed delivered cost of new material.

(iii) The supply acquired does not exceed the expected shelf life, considering condition at time of acquisition.

(iv) The supply of spare parts acquired shall not exceed the life expectancy of the equipment supported.

(e) When acquiring an excess passenger motor vehicle without reimbursement for upgrading or replacement purposes, an agency shall promptly report as excess the replaced vehicle. In no event shall the reporting be later than 30 days after delivery of the replacement vehicle unless the replacement vehicle is charged to the number of passenger motor vehicles authorized by current appropriations. When the replaced passenger vehicle is reported excess to GSA, the report shall be documented so as to identify the GSA control number on the transfer document for the replacement vehicle. Agencies having a temporary emergency need for passenger motor vehicles, and having authority to hire motor vehicles, shall obtain such vehicles from excess when they are not available from a GSA motor pool, prior to hiring vehicles from private sources. Such temporary emergency use shall not exceed a period of 3 months.

(f) The National Collection of Fine Arts in the Smithsonian Institution is responsible for the care, restoration, preservation, and display of works of art. It is endeavoring to increase its holdings of art belonging to the Government by assuming custodianship of Government-owned works having historic or artistic value. Agency property officers should be alert to the possibility of uncovering items of personal property and furnishings, not considered as or a part of real property, which are in storage or which are being disposed of due to lack of knowledge regarding their artistic value. Such items might be paintings and sculpture (except real property items such as mural paintings and fixed sculpture), mirrors, mirror frames, framed photographs, portraits, mantlepieces, furniture (such as Victorian-style furniture with carvings, with inlays of rare woods or other materials or with marble tops), and other objects with possible artistic merit. Holding agencies having such property releasable as excess should notify the nearest GSA regional office. GSA will arrange for documentation and instruction concerning the disposition of released items, and will include liaison with the Smithsonian Institution as appropriate.

[29 FR 16012, Dec. 1, 1964, as amended at 31 FR 1007, Jan. 26, 1966; 33 FR 17298, Nov. 22, 1968; 42 FR 40848, Aug. 12, 1977; 43 FR 26576, June 21, 1978]

§ 101-43.303 Suspension of procurement.

The Administrator of General Services may, as circumstances warrant, suspend the initiation of procurement for new items of property when these same items, or those which can be substituted or adapted for them, are available from excess property.

§ 101-43.303-1 Acquisition of mercury.

(a) Executive agencies of the Federal Government are prohibited from purchasing mercury in quantities of 76 pounds or more from commercial sources without prior clearance from GSA.

(b) Mercury, minimum 99.9 percent pure (not triple distilled), is available for transfer from GSA stocks at fair market value. Requests for mercury by an agency for its use or for use by its cost-reimbursement type contractors shall be made to the Project Manager, Minerals and Ores Branch, General Services Administration (ENDO), Washington, DC 20405. The project manager will furnish the current fair market value to the requesting agency, which then will submit a request to the project manager for transfer of the quantity required. The unit of issue is a 76-pound flask.

(c) Requests for clearance to purchase quantities of 76 pounds or more from sources other than GSA must be accompanied by a statement of the reasons that make the available mercury unsuitable for the purposes of the requesting agency. Requesting agencies will be notified as to the approval or disapproval of such requests.

(d) From time to time mercury, in quantities of less than 76 pounds and in lesser degrees of purity, may become excess to the needs of a Federal agency. Upon advice of the availability of such mercury, GSA will offer it for utilization without reimbursement in the same manner as other property is offered.

[29 FR 16012, Dec. 1, 1964, as amended at 32 FR 12402, Aug. 25, 1967; 43 FR 26576, June 21, 1978]

§ 101-43.304 Retention of custody.

GSA may direct the holding agency to retain custody of excess property, or order custody of whole or part transferred to other executive agencies, with their consent.

§ 101-43.305 Strategic and critical materials; excess related personal property.

For strategic and critical materials and excess related personal property, this Part 101-43 shall apply only to the extent not precluded by the provisions of Parts 101-14 and 101-47.

[43 FR 26576, June 21, 1978]

§ 101-43.306 Property not required to be reported.

Excess property which is not required to be reported to GSA in accordance with this Part 101-43 is a valuable source of supply for Federal agencies. Regional offices and area utilization officers of GSA are responsible for local screening of such property, for making it available to Federal agencies, and for consummating its expeditious transfer. Holding agencies shall cooperate with GSA representatives in making information available and in providing access to the nonreportable excess property. To the extent such property is not covered by GSA utilization screening processes, each agency shall make reasonable efforts to obtain utilization among other Federal agencies of property having utilization potential. In the case of controlled substances (as defined in § 101-43.001-4) solicitation shall be limited to those agencies listed in § 101-43.309.

[41 FR 22270, June 2, 1976]

§ 101-43.307 Legislative and judicial Federal agencies.

Federal agencies in the legislative and judicial branches are encouraged to report and transfer excess property and fill their requirements from excess property of other Federal agencies, in accordance with the provisions of this Part 101-43. In reporting property as excess, each Federal agency shall comply with the provisions of this Part 101-43.

§ 101-43.308 Assistance in emergency and major disaster relief.

In accordance with instructions of the Administrator, Federal Disaster Assistance Administration, Department of Housing and Urban Development, or his designee, excess property shall be utilized in behalf of or loaned to State and local governments, with or without compensation therefor, pursuant to the Disaster Relief Act of 1974 (Pub. L. 93-288) and Executive Order 11795 of July 11, 1974, to provide assistance to State and local governments in alleviating suffering and damage resulting from any emergency or major disaster. Excess medicines, foods, and other consumable supplies may be distributed to State and local governments for these purposes. In the event such property has been reported to GSA pursuant to § 101-43.311, it shall be withdrawn by the holding agency pursuant to § 101-43.314.

[40 FR 42361, Sept. 12, 1975]

§ 101-43.309 Controlled substances.

Holding agencies shall arrange for transfers in accordance with § 101-43.315-5. In effecting the utilization of excess controlled substances, the holding agencies shall transfer excess controlled substances only to those Federal agencies which certify that they are registered with the Drug Enforcement Administration (DEA) (formerly the Bureau of Narcotics and Dangerous Drugs (BNDD)), Department of Justice, and are authorized to procure the particular controlled substances being transferred. The certification shall include the registration number of the BND Form 223, Certificate of Registration, issued by DEA.

[39 FR 44753, Dec. 27, 1974]

§ 101-43.310 [Reserved]

§ 101-43.311 Reporting requirements.

§ 101-43.311-1 Reporting.

Except as set forth in § 101-43.312, excess personal property shall be reported promptly as provided in this § 101-43.311-1 and in accordance with the Federal supply classification groups and classes in § 101-43.4801 with full descriptions when they are available. In the absence of these descriptions, adequate commercial descriptions shall be substituted. Whenever possible, national stock numbers shall be provided as part of the description. It is essential that the excess personal property report reflect the true condition of the property as of the date it is reported excess through assignment of the appropriate disposal condition code designation as defined in § 101-43.4801(e). Each Department of Defense excess personal property report must also contain the appropriate supply condition code as defined in § 101-43.4801(f), except reports of contractor inventory when a determination is made that inclusion of the supply condition code is impractical. When available from property records, civil agencies shall also include the appropriate supply condition code in excess personal property reports. Further, whenever an item of equipment is reported as excess on Standard Form 120, report of Excess Personal Property, any available operating manual, parts list, circuit or wiring diagram, maintenance record, log, or other instructional or informational publication or brochure pertaining to the equipment shall be reported on the Standard Form 120. If the property reported is a prefabricated movable structure that has been installed in a permanent manner and if the reporting agency requires that the site be restored at the expense of the transferee, donee, or purchaser, the nature and estimated cost of restoration shall be included on the Standard Form 120. When the property being reported is an excess strategic or critical material which was previously reported to GSA in accordance with Subpart 101-14.1 but not accepted for transfer to the national stockpile, the fact that the material was previously reported shall be noted on the Standard Form 120.

[45 FR 28113, Apr. 28, 1980]

§ 101-43.311-2 Form and distribution of reports.

Reports of excess property shall be made on Standard Form 120, Report of Excess Personal Property, and Standard Form 120A, Continuation Sheet (Report of Excess Personal Property), illustrated at §§ 101-43.901-120 and 101-43.4901-120A respectively, in accordance with the instructions in § 101-43.4901-120-1, or, when acceptable to GSA, by data processing output. Standard Forms 120 and 120A shall be submitted in an original and three copies. Reporting by data processing output shall be submitted in the number of copies agreed upon by GSA. Reports shall be submitted to the GSA regional office for the region in which the property is located (see § 101-43.4802), except that reports of fixed wing and rotary wing aircraft shall be submitted to the General Services Administration (9DP), San Francisco, CA 94105, and excess Standard forms, with samples of these forms, shall be submitted to the General Services Administration (WF), Washington, D.C. 20407, for potential redistribution under the Standard forms program. Reports of excess ADPE shall be submitted as set forth in Subpart 101-36.47, except for reports of excess ADP supplies and support equipment in class 7045 with a unit original acquisition cost of $1,500 or less, which shall be submitted in accordance with this § 101-43.311-2. Since Standard Form 120, Report of Excess Personal Property, is an operating supply document and submitted by agencies as excess property is generated, it is excluded from the interagency reporting requirement as set forth in Subpart 101-11.11.

[44 FR 55376, Sept. 26, 1979]

§ 101-43.311-3 Typewriters.

Typewriters shall not be included on Standard Form 120 with any other personal property and the following additional descriptive information shall be provided: make, model, type (standard, silent, noiseless, portable, or electric), carriage width, typeface, and serial number.

§ 101-43.311-4 Excess personal property on or within excess real property.

Excess related personal property shall be reported to GSA in accordance with Part 101-47 of this chapter. Excess personal property, other than related personal property, which may be located on or within excess real property, is governed by this Part 101-43. The fact of location on excess real property shall be noted on the report.

§ 101-43.311-5 Property at installations due to be discontinued.

Executive agencies that have installations which are due to be discontinued, closed, or abandoned and at which there will be excess personal property shall, unless inadvisable in the interest of national security, give advance notice of such situations as early as possible by letter to the appropriate GSA regional office. In such cases, agencies shall identify the installation to be discontinued, and provide the scheduled date for the removal of personnel from the location, and the last date when the personal property will be needed. As soon as possible after filing the advance notice, the excess personal property shall be reported in accordance with this § 101-43.311 to provide time for screening for Federal utilization and donation purposes. Seventy-five days are usually required.

§ 101-43.312 Exceptions to reporting.

Unless otherwise directed by GSA, the following excess property shall not be reported:

(a) Perishables, defined for the purposes of this section, as any foodstuffs, which are subject to spoilage or decay;

(b) Property dangerous to public health and safety;

(c) Scrap and/or salvage: Provided, the property strictly conforms to the definitions for scrap and/or salvage (§ 101-43.4901-120-1);

(d) Property determined by competent authority to be classified for reasons of national security;

(e) Other items excepted from reporting as listed in § 101-43.4801;

(f) Otherwise reportable property which, prior to reporting as required in § 101-43.311, is transferred directly between Federal agencies to fill a known need; and

(g) Trading stamps and bonus goods. (See § 101-25.103.)

[29 FR 16012, Dec. 1, 1964, as amended at 40 FR 23856, June 3, 1975; 42 FR 40848, Aug. 12, 1977]

§ 101-43.313 Items requiring special handling.

§ 101-43.313-1 Controlled substances.

All controlled substances that the holding agency determines to be excess shall become surplus after the holding agency has complied with the utilization requirements of §§ 101-43.102 and 101-43.309. It is not required that the holding agency report the controlled substance to GSA as excess personal property.

[38 FR 8058, Mar. 28, 1973]

§ 101-43.313-2 Printing, binding, and blankbook equipment and supplies.

Excess machinery, equipment, material, and supplies for printing, binding, and blankbook work should be reported to the Public Printer for possible transfer, as provided in section 3 of the Act of July 19, 1919 (44 U.S.C. 59), prior to reporting to GSA.

§ 101-43.313-3 Intangible property.

Excess intangible property shall be reported to the General Services Administration (F), Washington, D.C. 20406, and shall not be transferred or disposed of without prior approval of GSA except that bonds, notes, or other securities authorized to be disposed of by the Secretary of the Treasury under section 5 of the Act of April 3, 1945 (31 U.S.C. 741a), shall not be reported to GSA.

[39 FR 44754, Dec. 27, 1974]

§ 101-43.313-4 Conditional gifts.

(a) Any agency receiving an offer of a conditional gift (other than money or intangible property) for a particular defense purpose within the purview of the Act of July 27, 1954 (50 U.S.C. 1151-1156), shall notify the appropriate regional office of GSA and shall submit a recommendation as to acceptance or rejection of the gift.

(b) Prior to such notification, the receiving agency shall acknowledge receipt of the offer and advise the donor of its referral to a GSA regional office but should not indicate acceptance or rejection of the gift on behalf of the United States. A copy of the acknowledgment shall accompany the notification and recommendation to the regional office.

(c) When the gift is determined to be acceptable and it can be used in the form in which offered, it will be transferred without reimbursement to a Federal agency designated by GSA for use for the particular purpose for which it was donated.

(d) If the gift is one which GSA determines shall be converted to money, the funds, after conversion, will be deposited with the Treasury Department for transfer to an appropriate account which will best effectuate the intent of the donor, as provided in Treasury Department Circular No. 957, dated February 24, 1955.

(e) Such conditional gifts of property will be accepted or rejected on behalf of the United States or transferred to an agency by GSA only after consultation with the interested agencies.

(f) GSA will advise the donor and the agencies concerned of the action taken with respect to acceptance or rejection of the conditional gift and of its final disposition.

(g) The provisions in this § 101-43.313-4 are applicable only to the acceptance of gifts under the provisions of the Act of July 27, 1954 (50 U.S.C. 1151-1156).

§§ 101-43.313-5—101-43.313-6 [Reserved]

§ 101-43.313-7 Nuclear Regulatory Commission-controlled materials.

Nuclear Regulatory Commission-controlled materials (as defined in § 101-43.001-1) are exempt from reporting to GSA as excess personal property. Transfers of such materials shall be made in accordance with applicable regulations of NRC. (See 10 CFR Parts 30, 40, and 70.)

[41 FR 22270, June 2, 1976]

§ 101-43.313-8 Drugs, biologicals, and reagents other than controlled substances.

Drugs, biologicals, and reagents in Federal Supply Class 6505, excluding controlled substances which will be handled as provided in §§ 101-43.309 and 101-43.313-1, which are from time to time determined to be excess and fit for human use shall be handled as provided in § 101-43.306. Such items may be separately packaged or may be components of a drug kit. The holding agency shall destroy, as provided in § 101-45.505, those separately packaged items which have been determined by the holding agency to be unfit for human use. Reports of the availability of any usable items which are in kits with other items that are unfit for human use shall clearly indicate which items are unfit for human use.

[38 FR 8058, Mar. 28, 1973]

§ 101-43.313-9 Shelf-life items.

(a) When quantities on hand of an item of a deteriorative nature which has a predetermined expiration date exceed requirements for the period ending on the expiration date, or for the period ending on the extended expiration date, such quantities shall be determined excess to the needs of the holding agency, provided that the overages cannot be utilized, cross-serviced, or returned for credit. Management of such items prior to determination as excess shall be governed for executive agencies, except the Department of Defense, by Subpart 101-27.2, and for the Department of Defense by appropriate Department of Defense instructions.

(b) Drugs and biologicals requiring refrigeration or deep freeze, medical shelf-life items held for national emergency purposes (see § 101-43.313-10), subsistence items, and ammunition are excepted from the provisions of this section.

(c) Shelf-life items which have a remaining useful life of 3 or more months before reaching the expiration date and are not otherwise utilized as provided in paragraph (a) of this section, shall be reported as excess in accordance with § 101-43.311. However, agencies may at their option also report shelf-life items not required to be reported by § 101-43.311. The report shall identify the items as shelf-life items by carrying the designating symbol "SL" and by showing the expiration date. If the item has an extendible-type expiration date, there also shall be furnished an indication as to whether the expiration date is the original or an extended date.

(d) Normally, items reported in accordance with paragraph (c) of this section will be given a surplus release date effective 60 days after the receipt of the report in the appropriate GSA office. This date may be shortened or extended consistent with utilization objectives and with the remaining useful shelf-life.

(e) Reported items will be circularized or otherwise made known by GSA to other using agencies during the period ending on the surplus release date. In the case of items reported by a facility or agency of the Department of Defense, requests by any other facility or agency of the Department of Defense will be given a priority during the first 15 days of the screening period. In the case of circularized, the priority will begin with the issue date of the catalog or bulletin. In the case of items not circularized, the priority will begin with the date of receipt of the report in the appropriate GSA office.

(f) Shelf-life items which have a remaining useful life of 3 or more months before reaching the expiration date but which are not reported shall be made available for use by other Federal agencies as provided in § 101-43.306. Documents listing such items shall identify the items by carrying the designating symbol "SL," shall show the expiration date, and, in the case of items with an extensible expiration date, shall indicate whether the expiration date is the original or an extended date. A surplus release date shall be established by the holding agency upon determination that these items are excess so as to provide a minimum of 21 calendar days for selection or set-aside of the items for Federal use. The surplus release date may be extended by the holding agency when these items are selected by an authorized screener for transfer or are set aside by a GSA representative for potential or actual transfer.

(g) Shelf-life items which have a remaining useful life of less than 3 months, regardless of acquisition cost or condition, shall be made available for utilization by other Federal agencies in the manner provided in paragraph (f) of this section.

(h) Transfers among Federal agencies of shelf-life items which have been determined to be excess by the holding agency shall be accomplished as set forth in § 101-43.315. Transfers shall be made without reimbursement.

(i) Shelf-life items determined to be excess, on which a surplus release date has been established in accordance with paragraph (d) or (f) of this section, and not transferred to other agencies, shall become surplus at the close of business on the surplus release date.

(j) Shelf-life items determined to be surplus in accordance with paragraph (i) of this section shall not be disposed of until a period of 21 calendar days has been afforded for donation program screening in accordance with Part 101-44. In the event that no donation action is initiated during the period afforded for donation screening, items may be offered for sale or other disposition at the termination of the donation screening period in accordance with Part 101-45.

[35 FR 10295, June 24, 1970, as amended at 37 FR 614, Jan. 14, 1972; 41 FR 22270, June 2, 1976; 43 FR 26576, June 21, 1978]

§ 101-43.313-10 Medical shelf-life items held for national emergency purposes.

(a) Whenever the head of an executive agency determines that the remaining storage or shelf life of medical materials or supplies held for national emergency purposes is of too short duration to justify their continued retention for such purposes and that their transfer or disposal would be in the best interest of the United States, those materials or supplies shall be considered to be excess personal property. To the greatest extent practicable, the above determination shall be made at such time as to ensure that such medical materials or supplies can be transferred or otherwise disposed of in sufficient time to permit their use before their shelf life expires and they are rendered unfit for human use.

(b) Medical materials and supplies held by an agency for national emergency purposes and determined to be excess may be exchanged with another Federal agency without prior approval of GSA and without regard to the provisions of Part 101-46. Such exchanges, however, shall be only for other medical materials or supplies to be held for national emergency purposes.

(c) Medical shelf-life items held for national emergency purposes which have a remaining useful life of 3 or more months before the expiration date and which are not otherwise exchanged as provided in paragraph (b) of this section shall be reported as excess in accordance with § 101-43.311. Each agency may also report medical shelf-life items not required to be reported by § 101-43.311. The Standard Form 120, Report of Excess Personal Property, shall identify the items as medical shelf-life items held for national emergency purposes by carrying the designating symbol "MSL" and by showing the shelf-life expiration date. Information shall also be furnished regarding whether the expiration date is the original or the extended date. Further, whenever medical shelf-life items held for national emergency purposes are reported as excess on Standard Form 120, any specialized storage requirements pertaining to the items listed thereon shall be noted on the report.

(d) Normally, medical shelf-life items held for national emergency purposes and reported in accordance with paragraph (c) of this section will be given a surplus release date effective 60 calendar days after the receipt of the report in the appropriate GSA office. This date may be shortened or extended according to utilization objectives and the remaining useful shelf life. However, GSA offices will handle the screening of medical shelf-life items to permit their use before the shelf life expires, and the items are unfit for human use.

(e) Medical shelf-life items held for national emergency purposes which have a remaining useful life of 3 or more months and which are not reportable in accordance with § 101-43.4801 shall be made available for use by other Federal agencies as provided in § 101-43.306. When such items are determined excess, a surplus release date shall be established by the holding agency providing a minimum of 21 calendar days for selection of the items for Federal use. For controlled substances (as defined in § 101-43.001-4), each executive agency shall comply with §§ 101-43.309 and 101-43.313-1.

(f) Transfers among Federal agencies of medical materials and supplies held for national emergency purposes and determined to be excess shall be accomplished in accordance with § 101-43.315, except that such transfers shall be made upon such terms and prices as shall be agreed to by the Federal agencies concerned (including the organizations specified in § 101-46.301). Proceeds from such transfers may be credited to the current applicable appropriation or fund of the transferring agency and shall be available only for the purchase of medical materials or supplies for national emergency purposes.

(g) Medical materials and supplies held for national emergency purposes and determined excess property, for which a surplus release date has been established in accordance with paragraphs (d) or (e) of this section, and which are not transferred to other agencies, shall become surplus at the close of business on the surplus release date.

(h) Medical materials and supplies held for national emergency purposes and determined to be surplus shall not be disposed of until after the 21 calendar days for donation program screening in accordance with Part 101-44. If no donation action is initiated during the period for donation screening, items shall be disposed of in accordance with Part 101-45.

[41 FR 22270, June 2, 1976, as amended at 42 FR 40848, Aug. 12, 1977; 43 FR 26577, June 21, 1978]

§ 101-43.313-11 Nonappropriated fund property.

(a) Nonappropriated fund property determined to be excess shall be made available for transfer as provided in this Part 101-43.

(b) Transfers of excess nonappropriated fund property shall be made upon such terms as shall be agreed upon by the owning agency and the receiving agency. However, agencies offering such property for transfer shall not require reimbursement greater than the best estimate of the gross proceeds if the property were to be sold on a competitive bid or the dollar value offered on a trade-in.

[41 FR 22271, June 2, 1976]

§ 101-43.313-12 Noncertified electronic products.

(a) For the purpose of this section "noncertified electronic product" means any excess or exchange/sale electronic product for which there is an applicable radiation safety performance standard prescribed or hereafter prescribed by the Food and Drug Administration (FDA) under 21 CFR 1020 and which the manufacturer has not certified as meeting such standard. The noncertification may be due to either (1) manufacture of the product before the effective date of the standard or (2) the product was exempted from the applicable standard and is so labeled.

(b) Excess or exchange/sale electronic items for which radiation safety performance standards are prescribed by FDA under 21 CFR Part 1000 shall be made available for transfer to Federal agencies in accordance with the provisions of § 101-43.311 and this § 101-43.313-12. Standard Form 120, Report of Excess Personal Property (illustrated at §101-43.4901-120), shall identify the items as noncertified electronic products and shall contain a statement that the items may not be in compliance with applicable radiation safety performance standards prescribed by FDA under 21 CFR Part 1000. Excess property catalogs and bulletins circulated by GSA offering such items shall advise Federal agencies of the potential danger of using the items unless they are upgraded to meet Federal radiation safety standards.

(c) Transfers of noncertified electronic products among Federal agencies shall be accomplished:

(1) As set forth in § 101-43.315; and

(2) By use of Standard Form 122. Transfer Order Excess Personal Property (illustrated at §101-43.4901-122), or any other approved GSA transfer order form certified by the transferee that he:

(i) Is aware of the potential danger in using the item without a radiation test to determine the acceptability for use and/or modification to bring it into compliance with the radiation safety performance standard prescribed for the item under 21 CFR 1000; and

(ii) Agrees to accept the item from the holding agency under the conditions cited in paragraph (c)(2)(i) of this section.

[42 FR 24052, May 12, 1977, as amended at 43 FR 26577, June 21, 1978]

§ 101-43.314 Withdrawals and corrections.

§ 101-43.314-1 Withdrawals.

Requests for withdrawals shall be addressed to the GSA regional office to which the report of excess property was forwarded. Disposition of property shall not be made until after approval of withdrawal is received from GSA except in cases involving the physical transfer of property for purposes of major disaster relief. This will enable the GSA regional offices to provide firm listings of excess property and assure agencies that property selected is available. It will preclude the expense of inspection and preparation of correspondence and transfer documents on property to be withdrawn and will assist in providing a uniform and orderly program for the utilization of excess property.

§ 101-43.314-2 Corrections.

Corrected reports of excess property shall be submitted to the appropriate GSA regional office for necessary action.

§ 101-43.315 Transfers of excess property.

§ 101-43.315-1 Agencies eligible.

Transfers of excess personal property may be made among Federal agencies (which include wholly owned Government Corporations), to cost-reimbursement type contractors, and to the Senate, the House of Representatives, the Architect of the Capitol and any activities under his direction, mixed-ownership Government corporations as defined in the Government Corporation Control Act (31 U.S.C. 841), the municipal government of the District of Columbia, or non-Federal agencies for which GSA procures, such as State forestry activities engaged in forest fire control, or Soil Conservation Districts.

§ 101-43.315-2 Information of availability.

There are several methods of obtaining reliable information regarding the availability of excess property, among which are:

(a) Personal contact with GSA or the holding installation;

(b) Review of excess property catalogs and bulletins circularized by GSA;

(c) Examination and inspection of reports and samples of excess property assembled for this purpose in GSA regional offices; and

(d) Submission of current and future requirements for excess personal property to the appropriate GSA regional office using GSA Form 1539, Request for Excess Personal Property. Section 101-43.4902-1539 illustrates GSA Form 1539, and § 101-43.4902-1539-1 provides instructions for its acquisition and use. Property utilization specialists in GSA regional offices continually review completed forms in an effort to match agency needs with property becoming available for transfer. In addition, a mechanized method of cross matching agency requirements against reported excess property is used, keyed to the 13-digit national stock number (NSN) furnished by reporting agencies on Standard Form 120, Report of Excess Personal Property, and by requesting agencies on GSA Form 1539. A bank of requirements is maintained, recorded by agency, and identified by the applicable national item identification number (NIIN) (the last nine digits of the NSN). As excess property is reported, availability is matched against requirements on a direct NIIN-to-NIIN basis. It is important that wherever possible the NSN be shown for each item requested. GSA will assist agencies in obtaining NSN's so that the requirements may be incorporated into the mechanized matching system. If substitute items are acceptable, these should be furnished at the same time and identified by the NSN. Agencies having electrical accounting machine punchcard capability may elect to use this method of submitting requirements. In these instances, instructions for submission of requirements may be obtained from the Federal Supply Service, Personal Property Division, at each GSA regional office. Agencies also may submit a list of property requirements which will be incorporated into the mechanized requirements bank and will be retained for approximately 180 days. Reported excesses during this time, if matched with recorded requirements, will be offered for immediate transfer. Normally, items for which needs are registered will not be offered in GSA excess property catalogs and bulletins. Thus, it is advantageous for agencies to update their list of items at the end of each 180-day period to derive maximum benefits from the excess property program and to preclude removal of the items from the requirements bank.

[32 FR 10255, July 12, 1967, as amended at 43 FR 26577, June 21, 1978]

§ 101-43.315-3 Fair value reimbursement.

(a) All transfers of excess personal property shall be without reimbursement of fair value (the costs specified in § 101-43.317 will be chargeable to the transferee agency), except that such reimbursement shall be required when:

(1) The property transferred was acquired by the use of funds either not appropriated from the general fund of the Treasury or appropriated therefrom but by law reimbursable from assessment, tax, or other revenue or receipts and payment of fair value is requested. It is the current policy of the executive branch of the Government that transfers of working capital fund property shall be without reimbursement.

(2) Either the transferor or the transferee agency (or the organizational unit affected) is a wholly owned or a mixed-ownership Government corporation as defined in the Government Corporation Control Act (31 U.S.C. 841), is the municipal government of the District of Columbia, or is a non-Federal agency and the function of the Federal agency authorized to procure for it is transferred to the General Services Administration. (See § 101-43.4803 for list of Government corporations.)

(3) Reimbursement is directed by GSA.

(b) The fair value of excess property transferred with reimbursement pursuant to this § 101-43.315-3 shall be determined by the holding agency in accordance with the following formula:

Fair value code	Explanation	Percentage of original or estimated acquisition cost
A	New or unused personal property falling in condition code designation 1 (see § 101-43.4901-120-1).	20
B	All other personal property	0

(c) Where application of the above formula will not achieve the intended purpose because of special circumstances or the peculiar nature of the property, the holding agency may use other criteria for arriving at fair value if approved or directed by GSA. Where circumstances warrant, and the agencies concerned agree thereto, fair value prices higher than those arrived at by use of the formula specified in this § 101-43.315-3 may be used.

(d) Disagreement between agencies as to the fair value shall be referred for final determination to the Regional Administrator, GSA, for the region in which the property is located, or his designated representative.

[29 FR 16012, Dec. 1, 1964, as amended at 42 FR 40848, Aug. 12, 1977; 45 FR 28113, Apr. 28, 1980]

§ 101-43.315-4 Transfer for redistribution.

(a) Any organizational unit of GSA authorized to perform redistribution functions is authorized to make necessary arrangements for the transfer to it for redistribution of available excess property in the custody of any Federal agency.

(b) Items reported as excess and determined by GSA to be suitable for redistribution within the Federal Government may be taken into physical custody by GSA and redistributed through an authorized organizational unit or, when notified, shall be retained by the holding agency until such time as redistribution is directed by GSA.

(c) Items which are identical to or can be substituted for items listed in the GSA Supply Catalog shall be furnished to agencies through the GSA stock program at prices to be determined by GSA.

(d) To assure maximum redistribution of items available from excess, GSA may require from time to time that all orders for such items be forwarded to a GSA regional office until excess stocks are exhausted.

[29 FR 16012, Dec. 1, 1964, as amended at 39 FR 44754, Dec. 27, 1974]

§ 101-43.315-5 Procedure for effecting transfers.

(a) All transfers of excess personal property between Federal agencies shall be accomplished by use of Standard Form 122, Transfer Order Excess Personal Property (see § 101-43.4901-122), or any other transfer order form approved by GSA. Automated requisitions may be used for excess personal property transfers. However, Federal agencies using automated requisitions shall ensure that identifying codes are controlled and records maintained indicating the official authorized to approve property transfers. Each transferee agency shall forward the original and three copies of the transfer order to the appropriate GSA regional office for approval. (See § 101-43.4802.) Prior approval is not required when the property involved in the given transaction is:

(1) Reportable under § 101-43.311 but has not yet been reported to GSA and its total acquisition cost does not exceed $2,000, and the owning agency's regulations relative to internal redistribution have been satisfied; or

(2) Nonreportable under § 101-43.311 and has not been reserved at the holding location for special screening by the appropriate GSA regional office, and its total acquisition cost does not exceed $25,000; and

(3) The appropriate GSA regional office is furnished an information copy of each direct transfer order by the transferor agency within 10 workdays from receipt of the order.

(b) Transfer orders accomplished by the use of Standard Form 122 shall be completed as shown in § 101-43.4901-122. Transfer orders shall be executed by a Federal official, and will not be approved by GSA unless so executed.

For wholly owned or mixed-ownership Government corporations, the Senate, the House of Representatives, the Architect of the Capitol and any activities under his direction, and the municipal government of the District of Columbia, transfer orders shall be executed by a responsible official of these organizations. For non-Federal agencies for which GSA procures, transfer orders shall be executed by a responsible official of the sponsoring Federal agency. For contractors and grantees, transfer orders shall be executed by the Federal contracting officer or other responsible Federal official. For nonappropriated fund activities of Federal agencies, such as post exchange commissaries and veterans canteens, transfer orders shall be executed by the accountable official of the Federal agency. The transfer order shall state that the property will be entered on the property accountability records of the Federal agency and shall also state that the property will be used only for administration or operational use but not for resale.

(c) When articles are offered for transportation, the condition of the articles shall be shown on the bill of lading. In order that the Federal Government may obtain the most economical rates for the movement of excess personal property in other than new condition, particular attention shall be given to the use of the appropriate classification description as required by carriers' tariffs.

(d) In approving transfer orders, GSA will take into consideration national defense requirements, emergency needs, equitable distribution, transportation costs, and other appropriate factors. If there are no other compelling factors, transfer order will be approved on a "first come, first served" basis.

(e) A copy of each approved or disapproved transfer order will be returned to the ordering agency by GSA regional office with appropriate notation. Two copies of approved orders will be appropriately noted and transmitted by the GSA regional office to the holding agency for transfer action. Any billing by the holding agency shall be accomplished in accordance with § 101-43.317.

(f)(1) If the transfer order does not contain complete shipping instructions, the transferee agency is required to transmit these to the holding activity within 15 days after receipt of the transfer order by the holding activity in the case of domestic shipments, or 45 days in the case of export shipments. The holding activity will communicate failure to receive such shipping instructions to the GSA regional office which approved the transfer.

(2) If the transfer order indicates the property is to be picked up by the transferee agency, this action must be accomplished within 20 days from the time such agency is notified by the property custodian that the shipment is ready. The holding activity will communicate with the GSA regional office concerning the failure of the transferee agency to pick up property within the allotted time.

(g) Whenever a transfer order covers excess property which has deteriorated materially below the reported condition, the holding agency shall advise the GSA regional office of its current condition. The GSA regional office will so advise the ordering agency. Shipment will not be made until the ordering agency has advised the GSA regional office that the existing condition is acceptable, and the GSA regional office has so advised the holding agency.

(1) Holding activities will carry out shipping instructions within 20 days from receipt or make property available for pickup promptly.

(2) If the holding activity is unable to ship or deliver as required, the ordering activity must be advised of the reason for delay and scheduled shipping or delivery date.

(h)(1) Any item of excess personal property having unsafe or dangerous characteristics must be rendered safe by the holding activity before shipment or pickup is made or advice must be given the transferee regarding the actual or potential danger and the property clearly labeled to show this danger.

(2) Items on the U.S. Munitions List (22 CFR Part 121) that are subject to demilitarization requirements in order to render innocuous that property

which is dangerous to public health or safety or to preclude the compromise of security requirements shall be identified on the excess personal property report by the reporting activity with the appropriate one-letter demilitarization codes listed in § 101-43.4804. Federal agencies acquiring these items shall perpetuate the demilitarization codes in their property records and on subsequent reports of excess personal property submitted to GSA. Demilitarization codes shall also be perpetuated on records of nonreportable property. Demilitarization will be a condition of excess personal property transfers and surplus personal property donations, and demilitarization requirements, when applicable, will be carried out prior to transfer or donation unless otherwise excepted by GSA. The requirement to demilitarize certain munitions list items prior to transfer or donation will normally be waived for the following recipients:

(i) Federal agencies, when the agency requires the property for functional use and agrees to demilitarize the item prior to further disposition;

(ii) Project grantees, provided the granting agency determines that prior demilitarization is not in the best interest of the Government and the project grantee agrees to demilitarize the property and prior to further disposition; and

(iii) Authorized donees to whom title is being passed, subject to certification to the appropriate State agency or sponsoring Federal Agency that demiliterization will be accomplished prior to further disposition.

(i) Whenever an excess item of equipment is transferred, any available operating manual, parts list, circuit or wiring diagram, maintenance record, log, or other instructional or informational publication or brochure pertaining to the equipment shall accompany and be transferred with the item of equipment.

(j) When excess vehicles are transferred between Federal agencies as provided in this Part 101-43, Standard Form 97, The U.S. Government Certificate of Release of a Motor Vehicle, shall not be issued by a property disposal officer or accountable official. Use of the Standard Form 97 is restricted to situations where title to the vehicle leaves the Federal Government.

[29 FR 16012, Dec. 1, 1964, as amended at 31 FR 5885, Apr. 16, 1966; 32 FR 571, Jan. 18, 1967; 35 FR 19181, Dec. 18, 1970; 40 FR 42361, Sept. 12, 1975; 42 FR 40849, Aug. 12, 1977; 44 FR 27392, May 10, 1979; 45 FR 36077, May 29, 1980]

§ 101-43.315-6 Report on condition and description.

Transferee Federal agencies are encouraged to advise the appropriate GSA regional office of instances in which the condition or description of excess items they acquired was improperly reported to them. This action shall not be taken when the items involved were inspected by the transferee agency.

§ 101-43.316 Contractor inventory.

Subject to the limitations contained in this Part 101-43, and Parts 101-44 and 101-45, any executive agency may authorize any of its contractors or their subcontractors to retain or dispose of any contractor inventory under such orders as such agency may prescribe.

§ 101-43.316-1 Utilization.

(a) Each executive agency shall provide for use of contractor inventory within such agency to the maximum extent feasible, prior to retention or disposal by a contractor. In addition, each executive agency shall comply with the utilization requirements and procedures in Part 101-43 with respect to the following types of contractor inventory:

(1) Typewriting machines; office furniture, machines, equipment, and supplies; motor vehicles and automotive equipment; printing and binding equipment; construction equipment (except hand tools); and all items in the GSA Supply Catalog.

(2) Types of property for which known requirements exist either in the contracting agency or other Federal agencies. Contractors shall be kept currently advised by the contracting agency of such types.

(3) Excess property, the quantity or dollar amount of which is substantial,

in accordance with criteria established by each agency, or as may be directed from time to time by GSA.

(4) Nuclear Regulatory Commission-Controlled materials.

(5) Controlled substances.

(6) Intangible personal property.

(7) Strategic and critical materials.

(8) Such other types of property as may, from time to time, be designated by GSA.

(b) In the case of contractor-owned contractor inventory, compliance with the utilization requirements and procedures in Part 101-43 with respect to the categories in § 101-43.316-1 should ordinarily occur prior to the Government's exercising the applicable option to take over such property. When utilization efforts disclose that an agency will accept transfer of such property, the appropriate agency shall take the necessary action to acquire title for the Government.

[29 FR 16012, Dec. 1, 1964, as amended at 38 FR 8058, Mar. 28, 1973; 39 FR 44754, Dec. 27, 1974; 41 FR 22271, June 2, 1976]

§ 101-43.317 Costs and proceeds.

§ 101-43.317-1 Cost of care and handling.

Each holding agency shall be responsible for and bear the costs of performing care and handling of excess, pending disposition. The direct costs incurred incident to the transfer shall be borne by the transferee agency if billed by the holding agency. Overhead or administrative costs or charges shall not be included. Only costs incurred in the actual packing, preparation for shipment, and loading may be recovered by the holding agency; and where such costs are incurred, they shall be reimbursed by the transferee agency upon appropriation billing, unless the holding agency waives the amount involved. Billing by a holding agency for direct costs of less than $100 for any single shipment would appear to be uneconomical and should be avoided.

[31 FR 5885, Apr. 16, 1966]

§ 101-43.317-2 Proceeds.

In those cases where reimbursement for fair value is to be made, the fair value proceeds shall be deposited in the Treasury to miscellaneous receipts or the appropriate agency account by the transferee agency with a copy of the deposit action furnished the agency determining the property to be excess.

§ 101-43.318 Determination of excess as surplus.

[33 FR 10009, July 12, 1968]

§ 101-43.318-1 Reportable property.

Excess property, when reported to the General Services Administration in accordance with § 101-43.311, and not transferred to other Federal agencies, shall become surplus at the close of business on the surplus release date established by the Administrator of General Services or his designee, and this date should be evidenced on the report of excess personal property. The surplus release date normally will be established to occur 60 days after receipt of the report of excess personal property in the appropriate GSA office. The Administrator of General Services or his designee may extend a surplus release date if such an extension is consistent with utilization objectives. The appropriate GSA regional office will formally notify the reporting activity prior to the surplus release date when an extension is contemplated.

[33 FR 10009, July 12, 1968]

§ 101-43.318-2 Nonreportable property.

Property excepted from the reporting requirements of § 101-43.311 shall become surplus when, after determination by the holding agency that it is excess, the property has been held available for Federal use for a minimum of 21 calendar days in accordance with the provisions of § 101-43.306 and has not been selected for transfer to other Federal agencies. Holding agencies shall annotate property records in a manner that will indicate to authorized Federal agency representatives the date of the excess determination by the holding agency. The surplus release date will be the day on which the Federal utilization screening period ends, and the property will become surplus at the close of business on that day. The surplus release date will normally occur 21 calendar days after the holding agency determines the property to be available for screening as excess, unless extended by GSA. Authorized Federal agency representatives may request and, with the approval of GSA, holding agencies will grant additional time not to exceed 30 calendar days unless otherwise agreed to by the holding agency concerned to complete selection for Federal use when the time provided is insufficient. Any additional extension of time shall be as mutually agreed upon by the holding agency and the GSA regional office concerned. The release as surplus of property not transferred to other Federal agencies will be deferred by the same lengths of time. During the screening period following the determination that the property is excess, no holding agency shall take for its use any property in its custody which has been selected by a GSA area utilization officer for further screening or transfer for utilization, except with the approval of the appropriate GSA regional office; provided that holding activities may withdraw such property to meet their essential emergency requirements without this prior approval. The appropriate GSA regional office shall be notified of any such actions. This section is applicable to all nonreportable excess property other than perishables, dangerous property, classified property, trading stamps, and Nuclear Regulatory Commission-controlled materials.

[41 FR 22271, June 2, 1976]

§ 101-43.318-3 Donation and sale of surplus property.

Holding agencies shall hold property determined to be surplus, as provided in §§ 101-43.318-1 and 101-43.318-2, available for donation program screening in accordance with Part 101-44 of this subchapter before it shall be assigned for sale, abandonment, or destruction in accordance with Part 101-45 of this subchapter. Nonappropriated fund property, upon being determined surplus, shall not be available for donation but may be disposed of as provided in Part 101-45 of this chapter.

[35 FR 19181, Dec. 18, 1970]

§ 101-43.319 Use of excess property on cost-reimbursement type contracts.

(a) Executive agencies are responsible under § 101-43.302 for fulfilling requirements for property, including requirements of cost-reimbursement type contractors, by transferring to and obtaining from other Federal agencies excess personal property. The use of excess personal property shall be considered by Federal agencies in their cost-reimbursement type contracts. For the purpose of this section, the term "cost-reimbursement type contract" means a contract providing for payment to the contractor of allowable costs incurred in the performance of the contract, to the extent prescribed in the contract.

(b) It is the responsibility of all agencies to achieve their program objectives at the least possible cost. Excess personal property can be used to reduce Government's contract costs and shall be considered for that use whenever possible. Excess personal property may be furnished to a cost-reimbursement type contractor with the approval of an authorized Federal official provided a determination is made by the contracting Federal agency that the acquisition will result in a reduction in the cost to the Government of the contract. This provision is subject to the annual reporting requirements of § 101-43.4701(c). Transfer orders for excess personal property must be executed by a duly authorized official of the contracting agency.

(c) Excess personal property is transferred from one Federal agency to another Federal agency as provided in § 101-43.315-5. The receiving Federal agency may furnish the property to its cost-reimbursement type contractor as Government-furnished property, but title normally remains vested in the Government. Federal agencies, when drawing up contract documents, shall ensure that appropriate provisions are included therein to accommodate the furnishing of excess personal property to cost-reimbursement type contractors. The system of accountability for such property shall be in accordance with contractual and agency procedures, and records shall be subject to audit by an internal audit group of the contracting Federal agency. In addition, the records shall be made available to the General Accounting Office upon request. The contract shall include adequate safeguards and assurances relative to use, maintenance, consumption, unauthorized use, and redelivery to Government custody of Government-furnished property.

(d) Upon completion or termination of the contract in whole or in part, Government-furnished personal property acquired from excess sources and no longer needed for the contract shall be reassigned, as far as practicable, to other cost-reimbursement type contracts or contractors or to other activities of the contracting Federal agency, except consumable property which has been expended. If no reassignment is made and if the property is not disposed of pursuant to applicable regulations or contract provisions relating to contractor inventory, it shall be reported to GSA by the contracting Federal agency for possible further Government use, as provided in § 101-43.311 unless other reporting requirements have been agreed upon by GSA and the reporting agency. Property not required to be reported shall be handled as provided in §§ 101-43.306 and 101-43.318-2. Property normally shall be held by the contractor until tranfer, donation, or disposal instructions are received. Contracting agencies shall have published procedures which clearly delineate the obligations of contractors with respect to the use and consumption or return to Government custody of property acquired from excess sources.

(e) Generally, title to excess property furnished to a contractor by a Federal agency remains vested in the Government; however, certain Federal agencies have specific statutory authority to vest title in contractors under certain circumstances. When competing Federal claims are made for particular items of excess personal property, with or without payment of reimbursement, GSA will give preference to the Federal agency that will retain title in the Government.

[42 FR 56000, Oct. 20, 1977]

§ 101-43.320 Use of excess property on grants.

(a) Federal agencies may obtain excess personal property for the purpose of furnishing such property to agency grantees only when the non-Federal recipient is an institution or organization which is the holder of a federally sponsored project grant and which is a public agency as defined in § 101-44.001-10 or is nonprofit and exempt from taxation under section 501 of the Internal Revenue Code of 1954. For the purpose of this section, the term "project grants" means grants made for specific purposes with specific termination dates.

(b) Excess personal property is transferred between Federal agencies as provided in § 101-43.315-5 and may be furnished to project grantees: *Provided,* That authorization for the grantee to use excess property is contained in the grant document; a written determination is made by the sponsoring Federal agency that the acquisition will result in a reduction in the cost to the Government of the grant or an enhancement of the product or the benefit from the grant; the property will not be stockpiled by the grantee but will be placed into use within a reasonable period of time following acquisition as directed in writing by the granting agency; and the transfer is approved by an authorized Federal official of the granting agency. Transfers to grantees include excess property reported to the General Services Administration in accordance with § 101-43.311; property excepted from the reporting requirements of § 101-43.311; and otherwise reportable property which, prior to reporting as required in § 101-43.311, is transferred directly between Federal agencies to fill a known need. Transfers to grantees are further subject to the following conditions:

(1) A Federal agency may obtain excess personal property for transfer to a project grantee: *Provided,* The sponsoring Federal agency pays an amount equal to 25 percent of the original acquisition cost (except for costs of care and handling) of the property such funds to be deposited into the U.S. Treasury as miscella-

neous receipts. Property obtained by a Federal agency from excess sources for other purposes shall not subsequently be furnished to a grantee unless the granting agency pays an amount equal to 25 percent of the original acquisition cost and deposits such payment into the U.S. Treasury as miscellaneous receipts. Title to excess property so furnished shall vest in the grantee and shall be accounted for and disposed of in accordance with Office of Management and Budget Circular A 102 procedures that are established by the granting agency governing the accountability of personal property acquired under the grant agreement.

(2) The provisions of paragraph (b)(1), of this section, shall not apply to the following:

(i) Excess personal property transferred under section 608 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2358), when and to the extent that property to be transferred under that act is not needed for donation pursuant to the provisions of Subparts 101-44.2 and 101-44.4 as determined by GSA;

(ii) Excess personal property furnished under section 203 of the Department of Agricultrue Organic Act of 1944 (16 U.S.C. 580a) through the U.S. Forest Service in connection with cooperative State forest fire control programs: *Provided,* That title to such property is retained in the Government;

(iii) Excess personal property furnished by Federal agencies in connection with grants to Indian tribes, as defined in section 3(c) of the Indian Financing Act (25 U.S.C. 1452(c)) as eligible for services from the Department of the Interior, Bureau of Indian Affairs (Title to this property shall remain vested in the Government unless the title is vested pursuant to specific statutory authority); and

(iv) Excess scientific equipment transferred under section 11(e) of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1870(e)). GSA will consider items of personal property as scientific equipment for transfer without reimbursement to the National Science Foundation for use by a project grantee when the property requested has a unit acquisition cost of $1,000 or more and is within Federal Supply Classification Groups 14 (Guided Missiles), 43 (Pumps and Compressors), 48 (Valves), 58 (Communication, Detection, and Coherent Radiation Equipment), 59 (Electrical and Electronic Equipment Components), 66 (Instruments and Laboratory Equipment), 67 (Photographic Equipment), 70 (General Purpose Automatic Data Processing Equipment, Software, Supplies, and Support Equipment), or 74 (Office Machines and Visible Record Equipment). Automatic data processing equipment, as defined in § 101-36.301, must be acquired under the provisions of Subpart 101-36.3 and § 101-36.4702, except for ADP supplies and support equipment in class 7045 with a unit original acquisition cost of $1,500 or less, which must be acquired under the provisions of this § 101-43.320(b)(2)(iv). GSA will give consideration to the transfer without reimbursement of items of excess property in other Federal supply classification groups, and items with a unit acquisition cost of less than $1,000, when the National Science Foundation certifies that the item requested is a component part of or related to a piece of scientific equipment or is an otherwise difficult-to-acquire item needed for scientific research. Items of property determined by GSA to be common-use or general purpose property, regardless of classification or unit acquisition cost, shall not be transferred to the National Science Foundation for use by a project grantee without reimbursement.

(3) The exceptions listed in paragraph (b)(2) of this section shall not preclude any Federal agency from obtaining excess personal property and furnishing it to a project grantee of that agency under the provisions of paragraph (b)(1) of this section.

(c) to ensure that all excess personal property transferred to project grantees is for the specific purpose authorized by the grantor agency, all transfer orders submitted to GSA for excess personal property to be made available to project grantees shall be signed by the agency accountable officer and shall state the name of the project grantee, the grant number, and the scheduled date of grant termination. The transfer order also shall specify the purpose of the transfer and affirm that the transfer of the property is requested for use by a project grantee in accordance with provisions of this Part 101-43. In cases in which reimbursements is required, the transfer order shall state the amount of reimbursement to be made for deposit in the U.S. Treasury as miscellaneous receipts. Upon receipt of the property, the grantor agency shall ensure that payment of 25 percent of the original acquisition cost (except for costs of care and handling) is made by the grantor agency to the U.S. Treasury and that a copy of the deposit document is furnished to the holding agency in accordance with the procedures in § 101-43.317-2.

(d) With the exception of consumable items and within the limitations of § 101-43.320(b)(2)(iv), Federal grantor agencies may make available to their project grantees excess personal property that is determined by the granting agency to be necessary and usable for the purposes of the grant. Requests for transfer of a consumable item to a Federal agency for use by a project grantee will be considered by GSA provided adequate justification accompanies such requests. For the purpose of this section, the term "consumable items" means those items which are intended for one-time use and are actually consumed in that one time; e.g., drugs, medicines, surgical dressings, cleaning and preserving materials, and fuels. When a question arises regarding the consumability of an item of excess personal property for transfer to a project grantee, final determination shall rest with the appropriate GSA regional office. Excess personal property may be transferred to a project grantee for the purpose of cannibalization: *Provided,* The granting Federal agency accompanies the transfer request with a supporting statement which clearly indicates that disassembly of the requested item for secondary use of its component parts, or for repair and maintenance of a similar item, has greater potential benefit than utilization of the item in its existing form and that a clear cost savings to the Government will result, subject to final determination by GSA. When circumstances warrant, agencies may set economic quantities for orders processed or set minimum life expectancies for excess personal property made available to grantees.

(e) To help ensure a more equitable distribution of property among project grantees, Federal grantor agencies shall limit the amount of excess personal property (in terms of original acquisition cost) transferred to a project grantee to the dollar value of the grant. Any higher percentage of excess personal property transferred to a project grantee shall be subject to approval by an official at an administrative level in the Federal agency higher than the project officer administering the grant. It is expected that agencies will give full consideration to all factors in determing whether to approve or disapprove transfers to grantees of excess personal property above the dollar value of the grant. Pro forma approvals or disapprovals are inconsistent with the purpose of this regulation. The grantor agency shall ensure compliance with the provisions of this § 101-43.320. Limits on the value of excess personal property and/or material grants consisting of excess personal property used in lieu of financial support below the dollar value of the grant may be authorized by Federal grantor agencies but shall be justified and documented in the grant file.

(f) The system of accountability for excess personal property furnished for use by a project grantee shall be in accordance with agency procedures, and records will be subject to audit by an internal audit group of the granting Federal agency and shall be made avaliable to the General Accounting Office upon request. Federal grantor agencies shall include the following information in their grants recordkeeping systems: Total original acquisition cost of property furnished for use by all project grantees; original acquisition cost of each item furnished for use by each project grantee; date of grant termination; dollar value of the grant; and original acquisition cost of property furnished expressed as a percentage of the total dollar value of the grant.

(g) Each Federal grantor agency shall develop and maintain an effective system for the prevention or detective of situations involving the nonuse, improper use, or unauthorized disposal or destruction of excess personal property furnished to grantees, whether or not title to that property is vested in the grantee. This responsibility shall include compliance reviews, field inspections, audits, and other enforcement procedures to monitor the excess personal property being used by its grantees. Each grantor agency shall publish procedures which clearly outline the scope of its surveillance program and which specify the policies and methods for the enforcement of its compliance responsibilities, including the frequency of scheduling of audits, reviews, and field inspections, and for the correction of abuses with respect to excess personal property furnished to project grantees. Upon request, and as a prior condition of approval of the transfer of excess personal property for use by project grantees, the grantor agency shall furnish GSA with copies of its published surveillance procedures and its grantee recordkeeping system as provided in this § 101-43.320(g).

(h) Except when title is vested in the grantee, Federal agencies, upon termination of a grant in whole or in part, shall reassign Government-furnished property, as practicable, to other activities of the grantor Federal agency. If reassignment is not made, the property shall be reported to GSA by the grantor Federal agency for potential further Government use as provided in § 101-43.311, or § 101-36.4702 for automatic data processing equipment, unless other reporting requirements have been agreed upon by GSA and the reporting agency. ADP supplies and support equipment in class 7045 with a unit original acquisition cost of $1,500 or less shall be reported to GSA as provided in § 101-43.311. Property normally shall be held by the grantee until transfer, donation, or disposal instructions are received. Grantor agencies shall publish procedures which clearly delineate the obligations of grantees with respect to the use and consumption or return to Government custody of property acquired from excess sources.

(i) When competing Federal claims are made for particular items of excess personal property, with or without payment of reimbursement, GSA will give preference to the Federal agency that will retain title in the Government.

[42 FR 56000, Oct. 20, 1977, as amended at 44 FR 55376, Sept. 26, 1979]

§ 101-43.321 Certification of non-Federal agency screeners.

(a) For the purposes of minimizing delays in screening excess personal property at holding activities and to make property available quickly and efficiently, all non-Federal agency screeners shall be subject to certification by Federal authority.

(b) The sponsoring Federal agency recommending the designation of a non-Federal agency screener shall prepare a request covering each designation and forward it for evaluation and approval to the appropriate GSA regional office serving the region in which the intended screener is located. (See § 101-43.4802 for regional offices, addresses, and assigned areas.) The request shall state the applicant's qualifications to screen excess personal property; indicate the name, number, and termination date of the specific project to which the screener is to be assigned; and list the Federal installations which the sponsoring Federal agency wishes the applicant to visit. Since GSA certification of screeners will be made on a regional basis, the list of installations shall be limited to those located within the boundaries of the GSA region in which the screener is located. Requests by sponsoring Federal agencies for screeners to visit holding activities located in a GSA region other than the region in which the screener is located shall be a matter of separate handling by GSA, and any such requests will require special approval by the involved GSA officials. Requests for approval of such interregional visits shall include the name of the installation(s) and the specific reason for the visit. Information shall also be included as to whether similar requests for interregional visits have been sent to other GSA regional offices. The request shall be forwarded to the GSA regional office representative serving the region in which the screener is located. The GSA representative will coordinate the request with the regional office in which the installation is located and inform the requester of the action taken on the request.

(c) Sponsoring Federal agencies shall accompany each non-Federal agency screener request with GSA Form 2946, Screener's Identification (illustrated at § 101-43.492-2946). GSA Forms 2946 must contain the typed names of both the screener's organization and the sponsoring Federal agency, the signature of the sponsoring Federal agency official, the typed name and signature of the proposed non-Federal agency screener, and an affixed passport-style photograph of the screener.

(d) GSA regional offices are responsible for processing the sponsoring Federal agency request for certification of the non-Federal agency screener. Following review, the GSA regional office, if the request is approved, will complete the GSA Form 2946 and return it to the sponsoring Federal agency for issuance to the screener. The GSA Form 2946 shall provide for an expiration date coinciding with the expiration or termination of the specific project. Whenever the services of an approved non-Federal agency screener are discontinued the sponsoring Federal agency shall recover the GSA Form 2946 and forward it to the validating GSA regional office for cancellation. Each sponsoring Federal agency shall be responsible for maintaining a record of the number of certified screeners operating under its authority and shall immediately notify the GSA regional office of any changes in screening assignments.

(e) Each non-Federal agency representative of a Federal agency physically screening property at holding installations for the purpose of selecting property for transfer shall possess a GSA Form 2946 validated by GSA as provided in this § 101-43.321. However, non-Federal personnel visiting holding activities in order to participate in onsite screenings or for the purpose of technical inspection, evaluation, and/or removal of specific property previously selected or approved by GSA for transfer shall not be required to possess a GSA Form 2946.

[42 FR 5600, Oct. 20, 1977]

Subpart 101-43.4—[Reserved]

Subpart 101-43.5—Utilization of Foreign Excess Personal Property

AUTHORITY: Sec. 402(c), 84 Stat. 884, 40 U.S.C. 512(c).

SOURCE: 37 FR 7977, Apr. 22, 1972, unless otherwise noted.

§ 101-43.500 Scope of subpart.

This subpart prescribes the policies and methods for the return of foreign excess personal property to the United States for utilization by any Federal agency, including the Senate, the House of Representatives, the Architect of the Capitol and any activities under his direction, the District of Columbia, and mixed-ownership corporations as defined in the Government Corporation Control Act.

§ 101-43.501 Federal Government policy.

Foreign excess personal property whenever determined available for return to the United States together with domestic excess personal property is a first source of supply and shall be utilized by agencies to the fullest extent practicable. Each executive agency shall, to the maximum extent practicable, fulfill its requirements for personal property, including those of its cost reimbursement type contractors and grantees, by obtaining domestic excess personal property (see Subpart 101-43.3), or foreign excess personal property in accordance with this subpart in lieu of new procurement, or to enhance and further its program objectives.

§ 101-43.502 Suspension of procurement.

The Administrator of General Services may, as circumstances warrant, suspend the procurement of new items of property when the same items or those which can be substituted or adapted for them are available from foreign excess property sources.

§ 101-43.503 Holding agency responsibilities.

(a) Prior to any sale, exchange, lease, or donation of medical materials or supplies pursuant to the provisions of section 402 (a) or (b) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 512), it is the responsibility of the head of each executive agency holding foreign excess personal property, or of the Administrator of General Services after consultation with that agency head, to determine whether it is in the interest of the United States to return foreign excess personal property from overseas for further Federal use or for donation as prescribed in Subpart 101-44.3. In exercising this authority, full consideration shall be given by GSA to the continuing and significant needs for excess and surplus equipment and supplies by Federal agencies and donee institutions and organizations. Federal agencies shall cooperate with GSA in making their foreign excess personal property available to GSA for selection and return to the United States for further Federal use or for donation.

(b) Before making foreign excess personal property available for return to the United States for further Federal use or for donation as prescribed in § 101-43.503(a) and in Subpart 101-44.3, the holding agency may make such property available for use by their activities in authorized programs. The Administrator, after consultation with an agency head, may establish the sequence of issue among competing Federal claimants for foreign excess property for Federal use and donation when it is found that the property is not required for the needs of that agency and its related activities.

[43 FR 26577, June 21, 1978]

§ 101-43.504 Screening and selection.

(a) GSA onsite representatives located in designated overseas locations will screen, on behalf of Federal agencies and donees for return and use in the United States, foreign excess personal property made available for such purposes. The property shall be made available by the holding or reporting agency, including the Defense Property Disposal Service (DPDS) and the Defense European and Pacific Redistribution Activity (DEPRA), for screening for a period of not less than 10 days unless otherwise agreed to by the holding or reporting agency and GSA.

(b) Property identified by the GSA onsite representative as having potential for further Federal agency use or for donation shall be designated for return to the United States. Through its onsite representatives or other means, GSA will arrange for shipment (including containerized loads). GSA initially may pay the actual costs incurred and billed in the packing, crating, handling, and transporting of foreign excess property to GSA facilities in the United States.

(c) Care will be exercised by the GSA onsite representatives in the selection of property to ensure that it is economical to return the property to the United States for Federal use. Full consideration will be given by GSA onsite representatives to transportation and accessorial costs in determining whether property will be returned. Each GSA onsite representative is furnished a consolidated want list of personal property items identified by Federal supply classification. This want list, developed from needs registered by Federal agencies with GSA regional offices, will be used by the GSA onsite representative as a guide in selecting personal property for return to the United States. Available items which are not on the want list will not be selected by GSA onsite representatives for return to the United States without prior coordination with the overseas property officer in the appropriate regional office.

(d) GSA will establish procedures with agencies having excess personal property in foreign areas where GSA onsite representatives are not located to report such property to the appropriate GSA office for screening.

[37 FR 7977, Apr. 22, 1972, as amended at 42 FR 56002, Oct. 20, 1977]

§ 101-43.505 Assistance to ordering agencies.

(a) To assist Federal agencies in the selection and transfer of foreign excess personal property returned from overseas, an experienced utilization officer of the Federal Supply Service (FSS) in each GSA regional office has been designated as the Regional Overseas Property Officer (ROPO) to serve as the contact point with Federal agencies in his regional area. The regional utilization officer receives information on the property needs of Federal agencies and transmits it to the GSA onsite representatives through the appropriate operations control officer. He also disseminates information on property available to Federal agencies. The GSA FSS Central Office staff serves as the contact point for the utilization screening of available foreign excess personal property returned to the United States with the headquarters offices of Federal agencies.

(b) The Department of Defense (DOD) has a system already in operation for the screening and utilization of foreign excess property within the Defense establishment. However, only Department of Defense (DOD) activities, the Trust Territories of the Pacific Islands, and the Agency for International Development are authorized to submit requisitions direct to the DOD holding/reporting agency in the overseas area. Federal civil agencies located in the United States shall contact the appropriate GSA Regional Overseas Property Officer (ROPO), as indicated in paragraph (a) of this section for assistance in requisitioning and acquiring foreign excess property. Federal civil agencies located in overseas areas should contact the appropriate GSA onsite representative for assistance in acquiring foreign excess property.

[37 FR 7977, Apr. 22, 1972, as amended at 39 FR 44754, Dec. 27, 1974]

§ 101-43.506 Payment of costs.

(a) All direct costs involved in returning foreign excess personal property to the United States under this subpart, including packing, handling, crating, and transporting, which are incurred by and billed to GSA from the point of origin to a GSA facility in the United States shall be reimbursed by the transferee agency upon appropriate billing by GSA.

(b) Transportation costs from the GSA location to the transferee agency shall be borne by the transferee agency. Payment of such transportation costs shall be made by the transferee agency to the transportation carrier.

§ 101-43.507 Statistics and reports.

The Administrator of General Services will maintain data on the acquisition cost of foreign excess personal property transferred by GSA pursuant to this subpart and will report such data to the Congress annually and at such other times as he may deem desirable.

§ 101-43.508 Donation availability.

Foreign excess personal property made available for return to the United States under this subpart, if not required for further Federal use, as determined by GSA, shall be made available for donation in accordance with Subpart 101-44.3.

[42 FR 56003, Oct. 20, 1977]

Subparts 101-43.6—101-43.46—[Reserved]

Subpart 101-43.47—Reports

SOURCE: 42 FR 56003, Oct. 20, 1977, unless otherwise noted.

§ 101-43.4700 Scope of subpart.

This subpart prescribes the requirements for reporting to GSA on matters pertaining to the general area of utilization and disposal of personal property.

§ 101-43.4701 Performance reports.

(a) An annual report of the utilzation of domestic excess personal property, shall be submitted in duplicate to GSA within 60 calendar days after the close of each fiscal year, using Standard Form 121, Annual Report of Utilization and Disposal of Excess and Surplus Personal Property. Interagency report control number 0015-GSA-AN has been assigned to this report in accordance with Subpart 101-11.11. Section 101-43.4901-121 illustrates SF 121, and § 101-43.490-121-1 provides instructions for its use.

(b) An annual report of the utilization of foreign excess property shall be submitted in duplicate to the President of the United States Senate and to the Speaker of the United States House of Representatives, within 90 days after the close of each fiscal year, using Standard Form 365, Annual Report of Disposal of Foreign Excess Property. Interagency report control number 1526-GSA-AN has been assigned to this report in accordance with Subpart 101-11.11. Section 101-43.4901-365 illustrates SF 365 and provides instructions for its use.

(c) In accordance with section 202(e) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 483), an annual report, in letter form, of personal property obtained as excess property or as property not excess to the owning agency but determined to be no longer required for the purposes of the appropriation from which it was purchased and subsequently furnished in any manner whatsoever within the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa to any recipient other than a Federal agency, shall be submitted by each executive agency to the General Services Administration (FW), Washington, D.C. 20406, within 90 calendar days after the close of each fiscal year. The report shall include only those items furnished non-Federal recipients during the fiscal year being reported. Interagency report control number 0154-GSA-AN has been assigned to this report in accordance with Subpart 101-11.11. Negative reports are required.

(1) The report shall reference FPMR 101-43.4701(c) and shall provide the following data:

(i) The name and address of each recipient;

(ii) The status of each recipient; i.e., cost-reimbursement type contractor, fixed-price type contractor, project grantee, etc. (If the recipient acquired Federal personal property of the types specified in this § 101-43.4701(c) under two or more arrangements; e.g., cost-reimbursement type contract and project grant, each arrangement shall be specified in the report.); and

(iii) The total original acquisition cost of all property furnished to each recipient identified by each applicable two digit Federal supply classification group.

(2) The Administrator will submit a report to the Senate and to the House of Representatives summarizing and analyzing the reports of the executive agencies.

Subpart 101-43.48—Exhibits

§ 101-43.4800 Scope of subpart.

This Subpart 101-43.48 exhibits information referenced in the text of Part 101-43 that is not suitable for inclusion elsewhere in that part.

[42 FR 40849, Aug.12, 1977]

§ 101-43.4801 Excess personal property reporting requirements.

(a) The table below shows the groups and classes reportable to General Services Administration. A line item in a reportable class will be reported when:

(1) It has a condition code (defined in paragraph (e) of this section) the same as or better than the minimum reportable disposal condition code shown in the last column; for example, "9" means property in that Group or Class coded 1 through 9 is reportable; and

(2) It has an acquisition cost (or standard price) of $500 or more, except that a line item in group 71 will be reported to General Services Administration without regard to acquisition cost (or standard price) is it is in better than scrap condition.

(b) With respect to aircraft and aircraft components and accessories:

(1) The table below states that line items as specified herein will be reported when in class 1510, 1520, 1560, 2810, 2840, or any class in group 16 except 1670. In Agencies other than the Department of Defense all line items in these classes will be reported when dollar and condition criteria are

met. In the Department of Defense aircraft in class 1510 which are in the Cargo/Transport, Observation, Anti-Sub, Trainer, or Utility series, all aircraft in class 1520, and line items in the other classes which are components of these aircraft will be reported when dollar and condition criteria are met.

(2) Items in classes 1510 and 1520 held by the Department of Defense or other agencies shall be reported to the General Services Administration (9FW), San Francisco, CA 94105

(c) Automatic data processing equipment as defined in § 101-36.301-1, whether or not it falls within group 70, shall be reported in the manner set forth in Subpart 101-36.47 to the General Services Administration (CDS), Washington, DC 20405, except that ADP supplies and support equipment in class 7045, as defined in § 101-36.301-1(d), with a unit original acquisition cost of $1,500 or less shall be reported to GSA regional offices in accordance with this Part 101-43.

(d) The table follows:

Federal supply classification			Not reportable to GSA	Reportable to GSA	Minimum reportable disposal condition code
Group No.	Group identification	Classes			
10	Weapons	All	x		
11	Nuclear ordnance	All	x		
12	Fire control equipment	All	x		
13	Ammunition and explosives	All	x		
14	Guided missiles	All except		x	9
		1410 guided missiles	x		
		1440 launchers, guided missile	x		
15	Aircraft; and airframe structural components.	All except	x		
		1510 aircraft, fixed wing, as specified by § 101-43.4801(b).		x	9
		1520 aircraft, rotary wing, as specified by § 101-43.4801(b).			
		1560 airframe structural components, as specified by § 101-43.4801(b).		x	9
16	Aircraft components and accessories.	All, as specified by § 101-43.4801(b), except.		x	1
		1670 parachutes and aerial pickup, delivery, and cargo tiedown equipment.		x	9
17	Aircraft launching, landing, and ground handling equipment.	All	x		
18	Space vehicles	All except	x		
		1850 space vehicle handling and servicing equipment.		x	7
		1860 space survival equipment		x	7
19	Ships, small craft, pontoons, and floating docks.	Vessels over 1500 gross tons	x		
		Vessels 1500 gross tons or under, except.	x		
		1905 combat ships and landing vessels.		x	8
		1915 cargo and tanker vessels		x	8
		1925 special service vessels		x	8
		1930 barges and lighters, cargo		x	8
		1935 barges and lighters, special purpose.		x	8
		1940 small craft		x	8
		1955 dredges		x	8
20	Ship and marine equipment	All	x		
22	Railway equipment	All except	x		
		2210 locomotives		x	9
		2220 rail cars		x	9
		2230 right-of-way construction and maintenance equipment, railroad.		x	7
		2250 track materials, railroad		x	7
23	Ground effect vehicles, motor vehicles, trailers, and cycles.	All except		x	9
		Armored vehicles in 2320 trucks and truck tractors.	x		

Federal supply classification			Not reportable to GSA	Reportable to GSA	Minimum reportable disposal condition code
Group No.	Group identification	Classes			
		2350 tanks and self-propelled weapons.	x		
24	Tractors	All		x	9
25	Vehicular equipment components.	All	x		
26	Tires and tubes	All except	x		
		2610 tires and tubes, pneumatic, except aircraft.		x	4
28	Engines, turbines, and components.	All except	x		
		2805 gasoline reciprocating engines, except aircraft; and components.		x	5
		2810 gasoline, reciprocating engines, and components; as specified by § 101-43.4801(b).		x	5
		2815 diesel engines and components.		x	5
		2840 gas turbines and jet engines, aircraft and components as specified by § 101-43.4801(b).		x	5
29	Engine accessories	All	x		
30	Mechanical power transmission equipment.	All	x		
31	Bearings	All	x		
32	Woodworking machinery and equipment.	All		x	9
34	Metalworking machinery	All		x	9
35	Service and trade equipment	All		x	7
36	Special industry machinery	All		x	8
37	Agricultural machinery and equipment.	All		x	9
38	Construction, mining, excavating, and highway maintenance equipment.	All		x	9
39	Materials handling equipment			x	9
40	Rope, cable, chain and fittings	All		x	7
41	Refrigeration, airconditioning, and air circulating equipment.	All		x	9
42	Firefighting, rescue, and safety equipment.	All except		x	9
		4230 decontaminating and impregnating equipment	x		
		4240 safety and rescue equipment.		x	7
43	Pumps and compressors	All except		x	9
		4330 centrifugals, separators, and pressure and vacuum filters.		x	7
44	Furnace, steam plant, and drying equipment; and nuclear reactors.	All		x	4
45	Plumbing, heating and sanitation equipment.	All		x	7
46	Water purification and sewage treatment equipment.	All		x	7
47	Pipe, tubing, hose and fittings	All		x	7
48	Valves	All		x	4
49	Maintenance and repair shop equipment.	All except		x	8
		4920 aircraft maintenance and repair shop specialized equipment.		x	9
		4925 ammunition maintenance and repair shop specialized equipment.	x		
		4931 fire control maintenance and repair shop specialized equipment.	x		

Federal supply classification			Not reportable to GSA	Reportable to GSA	Minimum reportable disposal condition code
Group No.	Group identification	Classes			
49	—Continued	4933 weapons maintenance and repair shop specialized equipment.	x		
		4935 guided missile maintenance, repair, and checkout specialized equipment.		x	9
51	Hand tools	All		x	8
52	Measuring tools	All		x	7
53	Hardware and abrasives	All		x	2
54	Prefabricated structures and scaffolding.	All		x	9
55	Lumber, millwork, plywood and veneer.	All		x	3
56	Construction and building materials.	All except		x	3
		Sand, gravel, and stone in 5610 mineral construction materials, bulk.	x		
58	Communication, detection, and coherent radiation equipment.	All		x	9
59	Electrical and electronic equipment components.	All		x	2
61	Electrical wire, and power and distribution equipment.	All except		x	7
		6105 motors, electrical		x	9
		6115 generators and generator sets, electrical.		x	9
		6135 batteries, primary		x	2
		6140 batteries, secondary		x	2
62	Lighting fixtures and lamps	All except	x		
		6210 indoor and outdoor electric lighting fixtures.		x	7
		6230 electric portable and hand lighting equipment.		x	9
		6240 electric lamps		x	2
		6250 ballasts, lampholders, and starters.		x	2
63	Alarm and signal systems	All	x		
65	Medical, dental, and veterinary equipment and supplies.	All except		x	5
		6505 drugs, biologicals, and official reagents.	x		
		6510 surgical dressing materials		x	2
		6530 hospital furniture, equipment, utensils, and supplies.		x	8
66	Instruments and laboratory equipment.	All except		x	7
		6605 navigational instruments		x	5
		6610 flight instruments		x	5
		6615 automatic pilot mechanisms and airborne gyro components.		x	5
		6620 engine instrument		x	5
		6625 electrical and electronic properties measuring and testing instruments.		x	9
		6640 laboratory equipment and supplies.		x	5
		6650 optical instruments		x	9
		6655 geophysical and astronomical instruments.		x	5
67	Photographic equipment	All except		x	7
		6750 photographic supplies		x	3
		6770 film, processed	x		
68	Chemicals and chemical products.	All		x	2
69	Training aids and devices	All		x	8
70	General purpose automatic data processing equipment, software, supplies and support equipment. (See § 101-43.4801(c).)	All		x	9
71	Furniture	All		x	9

Federal supply classification			Not reportable to GSA	Reportable to GSA	Minimum reportable disposal condition code
Group No.	Group identification	Classes			
72	Household and commercial furnishings and appliances.	All		x	8
73	Food preparation and serving equipment.	All		x	8
74	Office machines and visible record equipment.	All		x	9
75	Office supplies and devices	All		x	2
76	Books, maps, and other publications.	All except	x		
		7610 books and pamphlets			
77	Musical instruments, phonographs, and home-type radios.	All except		x	5
		7710 musical instruments		x	9
78	Recreational and athletic equipment.	All		x	5
79	Cleaning equipment and supplies.	All except		x	5
		7930 cleaning and polishing compounds and preparations.			2
80	Brushes, paints, sealers, and adhesives.	All		x	2
81	Containers, packaging, and packing supplies.	All except	x		
		8105 bags and sacks		x	8
		8110 drums and cans		x	8
		8115 boxes, cartons, and crates.		x	8
		8120 commercial and industrial gas cylinders.		x	8
		8135 packaging and packing bulk materials.		x	2
83	Textiles, leather, furs, apparel, and shoe findings, tents, and flags.	All except		x	2
		8340 tents and tarpaulins		x	9
		8345 flags and pennants	x		
84	Clothing and individual equipment and insignia.	All except		x	2
		8405 outerwear, men's		x	9
		8410 outerwear, women's		x	9
		8415 clothing, special purpose		x	9
		8455 badges and insignia	x		
		8460 luggage	x	x	7
		8465 individual equipment		x	7
85	Toiletries	All		x	1
87	Agricultural supplies	All	x		
89	Subsistence	All except	x		
		8965 beverages, alcoholic		x	2
91	Fuels, lubricants, oils and waxes.	All		x	2
93	Nonmetallic fabricated materials	All		x	2
94	Nonmetallic crude materials	All	x		
95	Metal bars, sheets, and shapes	All except		x	3
		9510 bars and rods, iron and steel.		x	5
		9515 plate, sheet, and strip; iron and and steel.		x	5
		9535 plate, steet strip and foil; nonferrous base metal.		x	5
96	Ores, minerals, and their primary products.	All except	x		
		9640 iron and steelprimary and semifinished products.		x	2
		9650 nonferrous base metal refinery and intermediate forms.		x	2
		9660 precious metals primary forms.		x	2
99	Miscellaneous	All except		x	1
		9910 Jewelry		x	7
		9999 miscellaneous items		x	9

(e) The appropriate disposal condition code from the table below shall be assigned to each item record, report, or listing of excess personal property:

Disposal condition code	Brief definition	Expanded definition
1	Unused—good	Unused property that is usable without repairs and identical or interchangeable with new items from normal supply sources.
2	Unused—fair	Unused property that is usable without repairs, but is deteriorated or damaged to the extent that utility is somewhat impaired.
3	Unused—poor	Unused property that is usable without repairs, but is considerably deteriorated or damaged. Enough utility remains to classify the property better than salvage.
4	Used—good	Used property that is usable without repairs and most of its useful life remains.
5	Used—fair	Used property that is usable without repairs, but is somewhat worn or deteriorated and may soon require repairs.
6	Used—poor	Used property that may be used without repairs, but is considerably worn or deteriorated to the degree that remaining utility is limited or major repairs will soon be required.
7	Repairs required good	Required repairs are minor and should not exceed 15 percent of original acquisition cost.
8	Repairs required—fair	Required repairs are considerable and are estimated to range from 16 percent to 40 percent of original acquisition cost.
9	Repairs required—poor	Required repairs are major because property is badly damaged, worn, or deteriorated, and are estimated to range from 41 percent to 65 percent of original acquisition cost.
X	Salvage	Property has some value in excess of its basic material content, but repair or rehabilitation to use for the originally intended purpose is clearly impractical. Repair for any use would exceed 65 percent of the original acquisition cost.
S	Scrap	Material that has no value except for its basic material content.

(f) In addition to the appropriate disposal condition code from the table in paragraph (e) of this section, each item record, report, or listing of Department of Defense excess personal property shall also contain the appropriate supply condition code assigned before or at the time the item was declared excess, except item records, reports, or listings of contractor inventory when a determination is made that inclusion of the supply condition code is impractical. When available, civil agencies shall include the appropriate supply condition code in each item record, report, or listing of excess personal property. These codes, which provide additional material condition information for screening purposes, follow:

Supply condition code	Brief definition	Expanded definition
A	Serviceable (issuable without qualification).	New, used, repaired or reconditioned material that is serviceable and issuable to all customers without limitation or restriction. Includes material with more than 6 months shelf-life remaining.
B	Serviceable (issuable with qualification)	New, used, repaired, or reconditioned material that is serviceable and issuable for its intended purpose but is restricted from issue to specific units, activities, or geographical areas by reason of its limited usefulness or short service-life expectancy. Includes material with 3 through 6 months shelf-life remaining.
C	Serviceable (priority issue)	Items that are serviceable and issuable to selected customers, but must be issued before Condition A and B material to avoid loss as a usable asset. Includes material with less than 3 months shelf-life remaining.
D	Serviceable (test/modification)	Serviceable material that requires test, alteration, modification, conversion, or disassembly. (This does not include items that must be inspected or tested immediately before issue.)
E	Unserviceable (limited restoration)	Material that involves only limited expense or effort to restore to serviceable condition and that is accomplished in the storage activity where the stock is located.
F	Unserviceable (reparable)	Economically reparable material that requires repair, overhaul, or reconditioning, including reparable items which are radioactively contaminated.
G	Unserviceable (incomplete)	Material requiring additional parts or components to complete the end item before issue.

Supply condition code	Brief definition	Expanded definition
H	Unserviceable (condemned)	Material that has been determined to be unserviceable and does not meet repair criteria, including condemned items that are radioactively contaminated.
S	Unserviceable (scrap)	Material that has no value except for its basic material content. No stock will be recorded as onhand in Condition Code S. This code is used only on transactions involving shipments to DPDO's. Material will not be transferred to Condition Code S before being turned in to PDO's if material is recorded in Condition Code A through H at the time material is determined excess. Material identified by NSN will not be identified by this Condition Code.

[30 FR 5823, Apr. 27, 1965. Redesignated and amended at 42 FR 40849, Aug. 12, 1977, and further amended at 44 FR 55377, Sept. 26, 1979, 45 FR 28113, Apr. 28, 1980; 45 FR 36077, May 29, 1980]

§ 101-43.4802 Regional offices addresses and assigned areas.

Region and office address	Regional areas
1—General Services Administration, John W. McCormack Post Office and Courthouse, Boston, Mass. 02109.	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.
2—General Services Administration, 26 Federal Plaza, New York, N.Y. 10007.	New Jersey, New York, Commonwealth of Puerto Rico, Virgin Islands.
3—General Services Administration, Region 3, Washington, D.C. 20407.	Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia.
4—General Services Administration, 1776 Peachtree St. NW., Atlanta, Ga. 30309.	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.
5—General Services Administration, 230 South Dearborn St., Chicago, Ill. 60604.	Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.
6—General Services Administration, 1500 East Bannister Rd., Kansas City, Mo. 64131.	Iowa, Kansas, Missouri, Nebraska.
7—General Services Administration, 819 Taylor St., Fort Worth, Tex. 76102.	Arkansas, Louisiana, New Mexico, Oklahoma, Texas.
8—General Services Administration, Building 41, Denver Federal Center, Denver, Colo. 80225.	Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.
9—General Services Administration, 525 Market St., San Francisco, Calif. 94105.	Arizona, California, Hawaii, Nevada, Pacific Ocean Areas.
10—General Services Administration, GSA Center, Auburn, Wash. 98002.	Alaska, Idaho, Oregon, Washington.

[43 FR 26578, June 21, 1978]

§ 101-43.4803 List of Government corporations (31 U.S.C. 846, 856).

Wholly owned and mixed ownership Government corporations are not necessarily limited to those listed below.

WHOLLY OWNED GOVERNMENT CORPORATIONS

Commodity Credit Corp.
Export-Import Bank of the United States.
Federal Crop Insurance Corp.
Federal Housing Adm.
Federal Prison Industries Inc.
Federal Savings and Loan Insurance Corp.
Government National Mortgage Assn.
Overseas Private Investment Corp.
Panama Canal Co.
Saint Lawrence Seaway Development Corp.
Tennessee Valley Authority.
Virgin Islands Corp.

MIXED-OWNERSHIP GOVERNMENT CORPORATIONS

Central Bank for Cooperatives and the Regional Banks for Cooperatives.
Federal Deposit Insurance Corp.
Federal Home Loan Banks.
Federal Intermediate Credit Banks.
Federal Land Banks.
The National Railroad Passenger Corp.
The Rural Telephone Bank.

[42 FR 40850, Aug. 12, 1977]

§ 101-43.4804 Demiliterization codes and related instructions.

There are 13 demilitarization codes in use; however, the provisions of § 101-43.315-5(h)(2) apply only to items identified with five of the codes. The five codes and related demilitarization instructions are as follows:

Code and Demilitarization Instructions

C—MLI—Remove and/or demilitarize installed key point(s), or lethal parts, components, and accessories.

D—MLI—Demilitarize by mutilation (make unfit for intended purpose) by melting, cutting, tearing, scratching, crushing, breaking, punching, or neutralizing. (As an alternative, burial or deep water dumping may be a used when authorized.)

E—MLI—Demilitarize by burning, shredding, or pulping.

F—MLI—Demilitarization instructions to be furnished by the item manager.

L—MLI—Demilitarize by mutilation (make unfit for intended purpose) by melting, cutting, tearing, scratching, crushing, breaking, punching, or neutralizing. (As an alternative, burial or deep water dumping may be used when authorized.) This code will be applied only to items identified as being a component of a key point on a major end item.

[44 FR 27393, May 10, 1979]

Subpart 101-43.49—Illustrations of Forms

SOURCE: 42 FR 40850, Aug. 12, 1977, unless otherwise noted.

§ 101.43.4900 Scope of subpart.

This subpart illustrates forms prescribed or available for use in connection with subject matter covered in other subparts of Part 101-43.

§ 101-43.4901 Standard forms.

(a) The Standard forms illustrated in this section show their text, format, and arrangement, and provide a ready source of reference. The subsection numbers in this section correspond with the Standard form number.

(b) The Standard forms illustrated in this § 101-43.4901 may be obtained by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office providing support to the requesting activity.

§ 101-43.4901-120 Standard Form 120, Report of Excess Personnel Property.

§ 101-43.4901-120A Standard Form 120A, Continuation Sheet (Report of Excess Personal Property).

§ 101-43.4901-120-1 Instructions for preparing Standard Form 120.

NOTE: The instructions in this § 101-43.4901-120-1 are filed with the original document and do not appear in this volume.

[42 FR 40850, Aug. 12, 1977, as amended at 44 FR 55377, Sept. 26, 1979; 45 FR 28117, Apr. 28, 1980]

§ 101-43.4901-121 Standard Form 121, Annual Report of Utilization and Disposal of Excess and Surplus Personal Property.

NOTE: The form illustrated in § 101-43.4901-121 is filed as part of the original document and does not appear in the FEDERAL REGISTER.

[42 FR 56003, Oct. 20, 1977]

§ 101-43.4901-121-1 Instructions for preparing Standard Form 121.

§ 101-43.4901-122 Standard Form 122, Transfer Order Excess Personal Property.

NOTE: The form and instructions illustrated in § 101-43.4901-122 are filed as a part of the original document and do not appear in the FEDERAL REGISTER.

[43 FR 26578, June 21, 1978]

§ 101-43.4901-365 Standard Form 365, Annual Report—Disposal of Foreign Excess Property.

§ 101-43.4902 GSA forms.

(a) GSA forms in this section show their text, format, and arrangement and provide a ready source of reference.

(b) GSA forms in this section may be obtained initially from the General Services Administration (3FNDD), Union and Franklin Streets Annex, Building 11, Alexandria, Va. 22314. Agency regional or field offices should submit future requirements to their Washington headquarters office which will forward consolidated annual rquirements to the General Services Administration (BRO), Washington, D.C. 20405.

§ 101-43.4902-1539 GSA Form 1539, Request for Excess Personal Property.

§ 101-43.4902-1539-1 Instructions for preparing GSA Form 1539.

INSTRUCTIONS FOR ACQUISITION AND USE OF GSA FORM 1539, REQUEST FOR EXCESS PERSONAL PROPERTY

1. *Availability.* GSA Form 1539 will be furnished to agencies upon request to GSA regional offices shown in § 101-43.4802. Information of a local or limited nature concerning the use of the form, not covered in paragraph 2, below, will be furnished by

GSA regional offices for customer agencies located in their areas.

2. *Guidelines for use of GSA Form 1539.* a. To obtain maximum benefits from GSA Form 1539, agencies shall submit the completed form to the appropriate GSA regional office immediately upon determination of the need. The expiration date of a normal 180-day screening period should be shown in block 5 of GSA Form 1539. However, if this length of time is unacceptable, an earlier date should be shown.

b. Agencies are requested to restrict the use of GSA Form 1539 to:

(1) A single line item which, as general rule, has a total acquisition cost of more than $500,

(2) An item not currently listed in GSA excess property catalogs or bulletins, and

(3) An item not listed in GSA Supply Catalogs and supplements thereto.

c. To assist the appropriate GSA regional office in locating and offering the agency an available excess item which will meet the specific need, block 1 (item description) of GSA Form 1539 must fully describe the item required and indicate the minimum acceptable condition code.

d. Nationwide requirements originating at agency headquarters may be submitted to the General Services Administration (FWU), Washington, DC 20406.

[43 FR 26578, June 21, 1978]

§ 101-43.4902-2946 GSA Form 2946, Screener's Identification.

NOTE: The form illustrated in § 101-43.4902-2946 is filed as part of the original document and does not appear in the FEDERAL REGISTER.

[42 FR 56003, Oct. 20, 1977]

PART 101-44—DONATION OF PERSONAL PROPERTY

Sec.

101-44.000 Scope of part.
101-44.001 Definitions or terms.
101-44.001-1 Agricultural commodity.
101-44.001-2 [Reserved]
101-44.001-3 Donable property.
101-44.001-4 Donee.
101-44.001-5 [Reserved]
101-44.001-6 Local government.
101-44.001-7 [Reserved]
101-44.001-8 Motor vehicle.
101-44.001-9 No commercial value.
101-44.001-10 Public agency.
101-44.001-11 Public body.
101-44.001-12 Service educational activity.
101-44.001-13 State.
101-44.001-14 State agency.

Subpart 101-44.1—General Provisions

Sec.

101-44.101 Withdrawal of donable property.
101-44.102 Cooperation of holding agencies.
101-44.103 Care and handling pending donation.
101-44.104 Costs incurred incident to donation.
101-44.105 Assistance in major disaster relief.
101-44.106 Expedited onsite donation screening.
101-44.107 Donation of property withdrawn from sale.
101-44.108 Donation of special categories of property.
101-44.108-1 Drugs, biologicals, and reagents other than controlled substances; and certain shelf-life items.
101-44.108-2 Donation of aircraft.
101-44.108-3 Automatic data processing equipment.
101-44.108-4 U.S. munitions list items.
101-44.108-5 Bedding and upholstered furniture.
101-44.108-6 Tax-free alcohol or specially denatured alcohol.
101-44.108-7 Franked and penalty envelopes and paper with official letterhead.
101-44.108-8 Pesticides and herbicides.
101-44.108-9 Donation of vessels.
101-44.108-10 Donation of certified and noncertified electronic products.
101-44.109 Donation screening period.
101-44.110 Transfer orders for surplus personal property.
101-44.111 Preparation and processing of transfer orders.
101-44.112 Approval or disapproval of transfer orders.
101-44.113 Rejection of property approved for transfer.
101-44.114 Pickup or shipment.
101-44.115 Overage and shortage reports.
101-44.116 Certification of screeners.
101-44.117 Recovery of property for Federal use.
101-44.118 Nondiscrimination.
101-44.119 Termination of restrictions.

Subpart 101-44.2—Donations to Public Agencies and Eligible Nonprofit Tax-Exempt Activities

101-44.200 Scope of subpart.
101-44.201 Authority.
101-44.202 State plan of operation.
101-44.203 Allocation of donable property.
101-44.204 Certification and agreement by a State agency.
101-44.205 Property in the possession of a State agency.

Sec.
101-44.206 Cooperative agreements.
101-44.207 Eligibility.
101-44.208 Property distributed to donees.

Subpart 101-44.3—Donations of Foreign Excess Personal Property

101-44.300 Scope of subpart.
101-44.301 Holding agency responsibilities.
101-44.302 Donation screening.
101-44.303 Donation approval.
101-44.304 Shipment.
101-44.305 Costs incurred incident to donation.
101-44.306 Statistics and reports.

Subpart 101-44.4—Donations to Service Educational Activities

101-44.400 General.
101-44.401 Agency authority.
101-44.402 Application.
101-44.403 Disposal.
101-44.404 Surveillance.
101-44.405 Reports.

Subpart 101-44.5—Donations to Public Airports

101-44.500 General.
101-44.501 Agency authority.
101-44.502 Application.
101-44.503 Surveillance.
101-44.504 Reports.

Subpart 101-44.6—Donations to the American National Red Cross

101-44.600 General.
101-44.601 Donation approval.
101-44.602 Cooperation of holding agencies.
101-44.603 Action by the Red Cross.
101-44.604 Transfer by holding agency.
101-44.605 Donable property determined unusable by the Red Cross.

Subpart 101-44.7—Donations of Property to Public Bodies

101-44.700 Scope of subpart.
101-44.701 Findings justifying donation to public bodies.
101-44.701-1 General.
101-44.701-2 Reviewing authority.
101-44.702 Donations to public bodies.
101-44.702-1 Authority to donate.
101-44.702-2 Disposal costs.
101-44.702-3 Certified and noncertified electronic products.

Subpart 101-44.8—[Reserved]

Subpart 101-44.9—Miscellaneous Statutes

101-44.900 Scope of subpart.
Sec.
101-44.901 Condemned or obsolete material.
101-44.902 Obsolete, condemned, or captured vessels.
101-44.903 Obsolete naval material.
101-44.904 Obsolete material and articles of historic interest.
101-44.905 Obsolete or other Coast Guard material.

Subparts 101-44.10—101-44.46—[Reserved]

Subpart 101-44.47—Reports

101-44.4701 Reports.

Subpart 101-44.48—[Reserved]

Subpart 101-44.49—Illustrations of Forms

101-44.4900 Scope of subpart.
101-44.4901 Standard forms.
101-44.4901-123 Standard Form 123, Transfer Order Surplus Personal Property.
101-44.4901-123-A Standard Form 123-A, Transfer Order Surplus Personal Property (Continuation sheet).
101-44.4901-123-1 Instructions for preparing and processing Standard Form 123.
101-44.4902 GSA forms.
101-44.4902-3040 GSA Form 3040, State Agency Monthly Donation Report of Surplus Personal Property.
101-44.4902-3040-1 Instructions for preparing GSA Form 3040.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

SOURCE: 42 FR 56003, Oct. 20, 1977, unless otherwise noted.

§ 101-44.000 Scope of part.

This part prescribes policies and methods governing the donation of surplus personal property located within the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa, and the donation of foreign excess personal property designated for return to the United States.

§ 101-44.001 Definitions of terms.

For the purposes of this Part 101-44 the following terms shall have the meanings set forth in this section.

§ 101-44.001-1 Agricultural commodity.

"Agricultural commodity" means a product resulting from the cultivation of the soil or husbandry on farms and in the form customarily marketed by farmers.

§ 101-44.001-2 [Reserved]

§ 101-44.001-3 Donable property.

"Donable property" means surplus property under the control of an executive agency (including surplus personal property in working capital funds established under 10 U.S.C. 2208 or in similar management-type funds) except:

(a) Such property as may be specified from time to time by the Administrator of General Services;

(b) Surplus agricultural commodities, food, and cotton or woolen goods determined from time to time by the Secretary of Agriculture to be commodities requiring special handling to assist him in carrying out his responsibilities with respect to price support or stabilization;

(c) Property in trust funds; or

(d) Nonappropriated fund property.

§ 101-44.001-4 Donee.

"Donee" means a service educational activity; a State, political subdivision, municipality, or tax-supported institution acting on behalf of a public airport; a public agency using surplus personal property in carrying out or promoting for the residents of a given political area one or more public purposes, such as conservation, economic development, education, parks and recreation, public health, and public safety; an eligible nonprofit tax-exempt educational or public health institution or organization; the American National Red Cross; a public body; an eleemosynary institution; or any State or local government agency, and any nonprofit organization or institution, which receives funds appropriated for programs for older individuals under the Older Americans Act of 1965, as amended, under Title IV or Title XX of the Social Security Act, or under the Economic Opportunity Act of 1964.

[45 FR 56808, Aug. 26, 1980]

§ 101-44.001-5 [Reserved]

§ 101-44.001-6 Local government.

"Local government" means a government, or administration of a locality, within a State or a possession of the United States.

§ 101-44.001-7 [Reserved]

§ 101-44.001-8 Motor vehicle.

"Motor vehicle" means a conveyance self-propelled or drawn by mechanical power, designed to be principally operated on the streets and highways in the transportation of property or passengers.

§ 101-44.001-9 No commercial value.

"No commercial value" means personal property which is not usable and cannot economically be rehabilitated for use for the purposes for which it was originally intended, and can reasonably be expected to have no market value for use as an entity for any other purpose.

§ 101-44.001-10 Public agency.

"Public agency" means any State; political subdivision thereof, including any unit of local government or economic development district; any department, agency, or instrumentality thereof, including instrumentalities created by compact or other agreement between States or political subdivisions; multijurisdictional substate districts established by or pursuant to State law; or any Indian tribe, band, group, pueblo, or community located on a State reservation.

§ 101-44.001-11 Public body.

"Public body" means any State, territory, or possession of the United States; any political subdivision thereof; the District of Columbia; the Commonwealth of Puerto Rico; any agency or instrumentality of any of the foregoing; any Indian tribe; or any agency of the Federal Government.

§ 101-44.001-12 Service educational activity.

"Service educational activity" means any educational activity designated by the Secretary of Defense as being of special interest to the armed services; e.g., maritime academies or military, naval, Air Force, or Coast Guard preparatory schools.

§ 101-44.001-13 State.

"State" means one of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa.

§ 101-44.001-14 State agency.

"State agency" means the agency in each State designated under State law as responsible for the fair and equitable distribution within the State of all donations of surplus property to public agencies to be used for one or more public purposes, such as conservation, economic development, education, parks and recreation, public health, public safety, and programs for older indiv iduals, and to eligible nonprofit tax-exempt activities for education and public health purposes, including research for any such purposes, and for use in programs for older individuals.

[45 FR 56808, Aug. 26, 1980]

Subpart 101-44.1—General Provisions

§ 101-44.101 Withdrawal of donable property.

Surplus personal property set aside for donation or approved for donation may be withdrawn for use by the holding agency, or for transfer to a Federal agency (including the Senate, the House of Representatives, the Architect of the Capitol and any activities under his direction, the District of Columbia, and mixed-ownership corporations as defined in the Government Corporation Control Act), with the prior approval of GSA: *Provided*, That holding activities may withdraw such property to meet their essential valid requirements without this prior approval only in emergency situations requiring immediate action. The appropriate GSA regional office shall be immediately notified of any such actions. the State agency or donee which made application for donation of the property will be advised by the GSA regional office at the time a withdrawal is approved.

§ 101-44.102 Cooperation of holding agencies.

Holding agencies shall cooperate fully with all agencies and their duly accredited representatives authorized to participate in the donation program in locating, screening, and inspecting surplus personal property for donation. Upon reasonable request, holding agencies shall make available to these agencies or their representatives complete information regarding the quantity, description, condition, and location of donable property in their inventories. Holding agencies, however, need not prepare nor mail reports or listings not otherwise required by their procedures.

§ 101-44.103 Care and handling pending donation.

Pending donation, each holding agency shall be responsible for performing, and bearing the cost for, the care and handling of its property.

§ 101-44.104 Costs incurred incident to donation.

Direct costs incident to donation shall be borne by the State agency or the designated donee. Overhead or administrative costs or charges shall not be included. Only direct costs incurred in the actual packing, preparation for shipment, and loading may be recovered by the holding agency. Where such costs are incurred they shall be reimbursed promptly by the State agency or designated donee upon appropriate billing, unless the holding agency waives the amount involved as being uneconomical or impractical to collect. For example, collections of amounts of less than $100 for any single shipment would appear uneconomical. Payment of all transportation costs shall be borne by the State agency or the designated donee.

§ 101-44.105 Assistance in major disaster relief.

(a) For the purposes of this section, the following terms shall have the meanings set forth in this section:

(1) "Emergency" means any hurricane, tornado, storm, flood high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe in any part of the United States which requires Federal emergency assistance to supplement State and local efforts to save lives and protect property, public health, and safety or to avert or lessen the threat of a disaster.

(2) "Major disaster" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe in any part of the United States which, in the determination of the President, causes damage of sufficient severity and magnitude to warrant major disaster assistance (pursuant to the Disaster Relief Act of 1974 (Pub. L. 93-288)) above and beyond regular emergency services provided by the Federal Government, to supplement the efforts and available resources of States and local governments and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

(3) "United States" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, and the Trust Territory of the Pacific Islands.

(4) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, or the Trust Territory of the Pacific Islands.

(5) "Governor" means the chief executive of any State.

(6) "Local government" means (i) any county, city, village, town, district; or other political subdivision of any State; any Indian tribe or authorized tribal organization; or Alaska native village or organization, or (ii) any rural community or unincorporated town or village or any other public entity for which an application for assistance is made by a State or political subdivision thereof.

(7) "Federal agency" means any department, independent establishment Government corporation, or other agency of the executive branch of the Federal Government, including the United States Postal Service, but shall not include the American National Red Cross.

(b) The Disaster Relief Act of 1974 (Pub. L. 93-288) authorizes Federal assistance to States, local governments, and relief organizations. Upon declaration by the President of an emergency or a major disaster, Pub. L. 93-288 is usually invoked upon notification to Federal agencies and States by the Federal Disaster Assistance Administration (FDAA), Department of Housing and Urban Development, pursuant to Executive Order 11795 (July 11, 1974).

(c) Surplus personal property may be donated to States for use or distribution in connection with emergency or major disaster assistance purposes. Such use may include among other things the restoration of public facilities which have been damaged as well as the essential rehabilitation of individuals in need of major disaster assistance. All donations of surplus personal property for major disaster assistance require the prior approval of GSA, except where property already approved for donation is donated to eligible donees.

(d) When a major disaster or emergency is declared, the Governor of the affected States will designate a State coordinating officer to coordinate State and local disaster assistance efforts with those of the Federal Government. That same agency or official will also be the point of contact with FDAA.

(e) When Federal surplus property in the custody of a State agency is requested by the designated State official and certified by FDAA as being usable and needed, the State agency will release the property to the authorized State official.

(f) Reimbursement to the State agency releasing surplus property for disaster assistance will be made by the State receiving the property. If reimbursement is sought, the State agency should coordinate and make arrangements with the State official in charge of disaster relief for reimbursement for services provided. In addition to services rendered, State agencies are entitled to reimbursement of documented expenses originally incurred in the care and handling of the property, including the screening, transporting, and receipt of property made available for disaster relief.

(g) Property previously obtained from or through the State agency for disaster relief purposes, and not used or no longer required, shall be returned to the State agency. Such property received by the State agency will be accounted for and disposed of in the same manner as any other property approved for donation under normal circumstances.

(h) Federal assistance under the Disaster Relief Act of 1974 is terminated upon notice to the Governor of the State by the Administrator, Office of Federal Disaster Assistance Administration, or at the expiration of time periods prescribed in FDAA regulations, whichever occurs first.

§ 101-44.106 Expedited onsite donation screening.

(a) *General.* To expedite donation, surplus property may be made available on a case-by-case basis for onsite screening. Onsite screenings by GSA regional offices should be considered when the accumulation at military or civil agency activities and the types and kinds of property available indicate that a concentrated and expeditious screening may be the most economical and efficient method of accomplishing donation screening. Also, when base closure is involved or holding agencies are faced with serious storage problems, onsite screening should be considered.

(b) *Scheduling of screening.* The GSA regional office will contact the holding agency not later than 15 days before the date the onsite screening is scheduled to start so that all necessary arrangements can be coordinated and agreed upon. Onsite screening generally should be scheduled to begin when the property becomes surplus, after the end of the utilization screening period. If time will not permit separate screening, concurrent screening may be scheduled with Federal, State, and donee representatives in attendance.

(c) *Participation.* GSA regional offices will arrange for the broadest possible representation by State agency representatives commensurate with the quantity and value of property available. Participation in these screening sessions is limited to State agency employees and representatives of eligible donees designated by the State agency to attend such sessions.

(d) *Screening.* Screening sessions shall be conducted as follows:

(1) The donation screening period should be limited to the specific dates established by the agreement for the particular location. Generally, a screening period of 5 workdays should be sufficient.

(2) The property selected for the screening session should be set aside in separate areas and properly identified by the holding activity to facilitate screening by the participants.

(3) GSA and State agency representatives should be present during all screening periods.

(4) The State agency representative shall prepare SF 123, Transfer Order Surplus Personal Property (illustrated at § 101-44.4901-123), at the site on a daily basis for the property selected. (The Office of Management and Budget Approval Number 29-RO167 has been assigned to this form.) Upon approval by the GSA representative, the holding activity shall release the property. Processing of donation documents shall be expedited to ensure that the property is removed at the end of each daily session to the maximum extent possible. Property shall not be released until the transfer is approved by the GSA representative, except in emergency situations as determined by GSA.

(5) When the onsite donation screening is conducted on a continuing day-to-day basis under procedures previously agreed to in writing between GSA, the holding agency, and the State agency concerned, the presence of authorized GSA and State agency representatives is not required. Ar-

rangements may provide for processing the essential donation documents after the onsite screening and removal of the property.

§ 101-44.107 Donation of property withdrawn from sale.

Surplus personal property which is being offered for sale may be withdrawn and approved for donation: *Provided*, The property was not previously made available for donation or such action is not harmful to the sale, as jointly determined by GSA and the holding or selling agency. Withdrawal must be made before the award of such property. The State agency or donee requesting withdrawal of property from sale for purposes of donation shall submit the request to GSA for consideration and coordination with the selling agency. The request shall include a justification and a statement of whether the property had been available for screening during the authorized donation screening period.

§ 101-44.108 Donation of special categories of property.

The Administrator of General services is authorized under section 203(j)(4) of the Federal Property and Administrative Services Act of 1949, as amended, as circumstances warrant, to impose appropriate conditions on the donation of property having characteristics that require special handling or use limitations. In exercising his discretion the Administrator may, a case-by-case basis, prescribed additional restrictions covering the handling or use of such property.

§ 101-44.108-1 Drugs, biologicals, and reagents other than controlled substances; and certain shelf-life items.

(a) Surplus drugs, biologicals, and reagents that are in Federal Supply Class 6505 and are not required to be destroyed as provided by § 101-45.505 may be donated to public agencies for authorized public purposes and to eligible nonprofit tax-exempt activities. When the report of excess or other communication from the holding activity listing drugs, biologicals, and reagents indicates any items that are unfit for human use, GSA will not offer these items for donation. Controlled substances(as defined in § 101-43.001-4) shall not be donated.

(1) When surplus drugs, biologicals, and reagents are considered for donation, a letter of clearance shall be obtained by the State agency or designated donee from the Food and Drug Administration (FDA) indicating which items may be safely donated. The State agency or designated donee shall obtain the letter of clearance and ensure that the letter accompanies the SF 123. Items which do not fall within the purview of FDA, or which FDA indicates are unsuitable, will not be considered by GSA for donation.

(2) For purposes of obtaining the letter of clearance from FDA, the State agency or designated donee shall be responsible for obtaining and providing samples of any item that is required. Any payment of costs for laboratory examinations for quality assurance of samples shall be arranged by the State agency. Before laboratory examinations are undertaken by FDA, an estimate of the expected cost of the quality assurance shall be furnished by FDA to the State agency.

(3) In addition, in the case of surplus drugs, biologicals, and reagents requested by a State agency, the SF 123 shall also contain a statement that (i) for any quantity of items approved for donation which is to be stored in a State agency warehouse prior to distribution, the State agency certifies that adequate facilities are available to effect full accountability and proper storage of the items in accordance with Federal, State, and local statutes governing the acquisition, storage, and accountability of the items requested; (ii) the facilities will be used for the protection of the items, including protection against theft and pilferage; (iii) the items will be distributed only to institutions licensed and authorized to administer and dispense items or to organizations authorized to store items; and (iv) in addition to the normal certifications required to be executed by responsible officials of donee institutions or organizations when property is acquired by donation, the State agency shall obtain a certification from the donee indicating that (A) the items transferred to the

donee institution or organization will be safeguarded, dispensed, and administered under competent supervision; (B) adequate facilities are available to effect full accountability and proper storage of the items in accordance with Federal, State, and local statues governing their acquisition, storage, and accountability; and (C) the Administration or use of the items requested will comply with the provisions of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 301-392).

(b) Shelf-life items determined to be surplus in accordance with § 101-43.313-9(i) shall be made available for donation screening for authorized public purposes, for eligible nonprofit tax-exempt activities, and for public airport purposes, under the provisions of § 101-44.109. Before donation, drugs, biologicals, and reagents other than controlled substances, except those requiring refrigeration or deep freeze and those that are exempted from the provisions of § 101-43.313-9, shall be processed as provided in this § 101-44.108-1.

(c) Medical materials and medical supplies held for national emergency purposes and determined to be surplus in accordance with § 101-43.313-10(g) shall be made available for donation screening for authorized public purposes, for nonprofit health and educational institutions, and for public airport purposes, pursuant to the provisions of § 101-44.109. Prior to donation, drugs, biologicals and reagents which are not required to be destroyed as provided in § 101-45.505 shall be processed as provided in this § 101-44.108-1.

[42 FR 56003, Oct. 20, 1977, as amended at 45 FR 56808, Aug. 26, 1980]

§ 101-44.108-2 Donation of aircraft.

This section provides procedures and conditions for the donation of aircraft which are not classified for reasons of national security and after removal of lethal characteristics. The requirements of this paragraph apply to the donation of any fixed- or rotary-wing aircraft with a unit acquisition cost of $3,000 or more but do not apply to any components, accessories, parts, or appurtenances thereof. Combat-type aircraft shall not be donated for flight use.

(a) *Plan of utilization.* To assist GSA in the allocation and transfer of available surplus aircraft, each SF 123 submitted to GSA for donation of an aircraft covered by this § 101-44.108-2 shall included a letter of intent, signed and dated by the authorized representative of the proposed donee, setting forth a detailed plan of utilization for the property. The letter of intent shall provide the following information:

(1) Description of the aircraft requested, including the type, model or size, and the serial number, if its known;

(2) Description of the donee's program and the number of types of aircraft currently owned; and

(3) Whether the aircraft is to be used for flight purposes or nonflight purposes (including ground instruction or simulation use), and details of the planned utilization of the property. When the aircraft is requested for cannibalization (recovery of parts and components), the letter of intent should provide details.

(b) *Donations of aircraft to public agencies and eligible nonprofit tax-exempt activities.* (1) For the donation of an aircraft to a donee eligible in accordance with the provisions of Subpart 101-44.2, the SF 123 and the donee's letter of intent shall be processed by and though the State agency for the State in which the donee is located and submitted to GSA for approval.

(2) The State agency shall require the following the use conditions on the donation of aircraft to be used for flight purposes:

(i) The aircraft shall be used solely in accordance with the plan of utilization set forth in the donee's letter of intent unless the State agency, in writing, authorizes a change in the donee's plan of utilization; and

(ii) The donee shall agree to apply to the Federal Aviation Administration (FAA) for registration of an aircraft intended for flight use within 30 days of receipt of the aircraft.

(3) In the case of combat-type aircraft, as designated by DOD:

(i) The State agency shall impose restrictions on the use of the property which shall be in perpetuity and shall not be released by the State agency without the prior approval of GSA.

(ii) During the period of restriction, the donee shall not sell, trade, lease, lend bail, encumber, or cannibalize for parts unless provided for in the donee's plan of utilization, or otherwise dispose of the aircraft or parts thereof without the prior written approval of GSA.

(4) When a combat-type aircraft is no longer usable or further needed by the donee, the donee shall promptly notify the State agency and:

(i) Release the aircraft to another donee as determined by the State agency. (The transfer shall be subject to the same use conditions as required herein);

(ii) Release the aircraft to a department or agency of the United States as determined by GSA:

(iii) Sell the aircraft as determined by GSA; or

(iv) Render the aircraft completely unfit for any purpose except for the recovery of its basic material content as determined by GSA, the same to be performed in a manner satisfactory to the State agency, and the material content to be disposed of in accordance with the instructions of the State agency.

(5) When a combat-type aircraft is disposed of by the donee without the prior written approval of GSA or is used for a purpose other than the purposes stated, the donee, at the option of GSA, shall be liable to the United States of America for the proceeds of the disposal, the fair market value, or the fair rental value of the aircraft at the time of the unauthorized transaction or use, as determined by GSA.

(6) In the event of a breach by the donee of any of the above conditions pertaining to a combat-type aircraft, whether caused by the legal inability of the donee or its successor in function to perform said conditions or otherwise, all rights, title, and interest in and to the aircraft shall at the option of GSA, revert to and become the property of the United States of America, and the donee or its successors or assigns shall forfeit all of its or their rights title, and interest in and to the aircraft.

(7) In the case of any noncombat aircraft donated for nonfight use, the State agency shall acquire and destroy the aircraft historical modification records and the manufacturer's aircraft data plate, and shall so certify in writing to FAA at the following address: Chief, Quality Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591.

(8) The State agency may impose other terms, conditions, reservations, or restrictions on the use of aircraft donated under this § 101-44.108-2 which are not inconsistent with the conditions set forth in §§ 101-44.108-2(b)(2) and 101-44.208.

(9) In the case of combat-type aircraft, the State agency shall not grant waivers, amendments, modifications, or releases to the conditions required to be imposed by GSA on the use of the property nor issue disposal instructions to the donee for the aircraft without the prior written concurrence of GSA.

(10) Any breach by the donee of any conditions imposed by GSA on the donation of any aircraft shall be reported immediately by the State agency to GSA.

(c) *Donations of aircraft to service educational activities.* (1) Donation of a surplus Department of Defense (DOD) aircraft to a donee eligible in accordance with the provisions of Subpart 101-44.4 shall be made in accordance with the terms of the individual donation agreement executed by DOD and the service educational activity. The SF 123 with any additional required documentation specified shall be submitted for approval to the appropriate GSA regional office.

(2) Surplus DOD aircraft which have been demilitarized may be approved for donation by GSA to service educational activities for nonflight use, for static display, or for ground instruction and simulation purposes.

(3) Surplus DOD noncombat and commercial-type aircraft may be approved for donation by GSA at the request of DOD for flight purposes by service educational activities subject to the following use conditions and

agreements which DOD shall require of the donee:

(i) The aircraft shall be used soley in connection with the plan of utilization set forth in the donee's letter of intent unless DOD authorizes a change in writing to the donee's plan of utilization.

(ii) The donee shall apply to FAA for registration within 30 days of receipt of the aircraft.

(iii) The donee shall return the aircraft, at its expense, to the nearest DOD disposal activity when the aircraft is no longer usable or needed for the original purpose for which it was acquired.

(d) *Donations of aircraft for public airport purposes.* (1) When a surplus aircraft is donated to a donee eligible in accordance with the provisions of Subpart 101-44.5, the SF 123 and the donee's letter of intent shall be processed by and through FAA and submitted to GSA for approval.

(2) Surplus cannibalized or demiltarized aircraft may be approved for donation by GSA to a public airport for use in firefighting and rescue training. Flyable aircraft will not be approved for donation for public airport purposes.

[42 FR 56003, Oct. 20, 1977, as amended at 45 FR 56808, Aug. 26, 1980]

§ 101-44.108-3 Automatic data processing equipment.

For the donation of automatic data processing equipment, the State agency or other donee shall forward the SF 123 to GSA for coordination and clearance with the holding agency. Applications for a computer system(s) must be accompanied by a letter from the intended donee setting forth the proposed use of the equipment.

§ 101-44.108-4 U.S. munitions list items.

(a) Applicable demiliterization codes, as listed in § 101-43.4804, shall be perpetuated on all property records and reports of excess personal property as provided in § 101-43.315-5(h)(2). A State agency requesting the transfer for donation of munitions list items identified as requiring demiliterization, pursuant to the provisions of Subpart 101-44.2, shall include the demilitarization code on the SF 123 and a statement that the State agency will obtain from the donee a certification that, prior to further disposition, demilitarization of the property will be performed by the donee in accordance with the demilitarization instructions for the codes set forth in § 101-43.4804. In the case of munitions list items requested for donation by service educational activities or public airports, pursuant to the provisions of Subparts 101-44.4 and 101-44.5, respectively the donee shall include a statement on the SF 123 that it will demilitarize the property prior to further disposition in accordance with the requirements of the codes as set forth in § 101-43.4804.

(b) Before disposing of munitions list items identified as requiring demilitarization, the donee may request demilitarization instructions from GSA through the State agency for donations made pursuant to Subpart 101-44.2 or through the Federal Aviation Administration for donations made pursuant to Subpart 101-44.5. For munitions list items identified as requiring demilitarization donated to service educational activities pursuant to Subpart 101-44.4, demilitarization instructions may be obtained directly from the Defense Logistics Agency (DLA).

[44 FR 27393, May 10, 1979]

§ 101-44.108-5 Bedding and upholstered furniture.

An SF 123 submitted to a GSA regional office for donation of bedding and upholstered furniture will not be approved by GSA unless the State agency or other donee includes a statement that the material will be treated in accordance with applicable State law and regulations before reuse.

§ 101-44.108-6 Tax-free alcohol or specially denatured alcohol.

(a) When tax-free or specially denatured alcohol is requested for donation, the donee must posses a special permit issued by the Assistant Regional Commissioner of the appropriate regional office, Bureau of Alcohol, Tobacco, and Firearms (BATF), Department of the Treasury, to acquire the property.

(b) An SF 123 submitted to a GSA regional office for donation of tax-free or specially denatured alcohol will not be approved by GSA unless the appropriate BATF use-permit number is shown.

(c) A State agency shall not store tax-free or specially denatured alcohol in distribution centers. This property shall be transferred from holding activities direct to the designated donee.

§ 101-44.108-7 Franked and penalty envelopes and paper with official letterhead.

An SF 123 submitted to a GSA regional office for donation of paper with an official letterhead or for donation of franked or penalty envelopes on which the penalty indicia has not been obliterated will not be approved by GSA unless the State agency or other donee includes a statement certifying that the indicia and all other Federal Government markings on the envelopes and paper will be completely obliterated before they are used.

§ 101-44.108-8 Pesticides and herbicides.

An SF 123 requesting donation of pesticides and herbicides not registered with the Environmental Protection Agency (EPA) will not be approved by GSA regional offices until full clearances for use of the property have been received by GSA from the appropriate EPA regional office.

§ 101-44.108-9 Donation of vessels.

(a) An SF 123 submitted to a GSA regional office for donation of a vessel which is 50 or more feet in length shall be accompanied by a letter from the intended donee setting forth the proposed use of the vessel.

(b) Each donee, as a condition of the donation, shall agree to obtain documentation of the vessel under the applicable laws of the United States and the several States, to maintain this documentation at all times, and to record each document with the U.S. Coast Guard at the port of documentation of the property within 60 days after acquisition of the vessel, and in compliance with applicable State laws.

§ 101-44.108-10 Donation of certified and noncertified electronic products

(a) For the purpose of this section "certified electronic product" means any excess electronic product that has been determined by GSA to be surplus to the needs and responsibilities of all Federal agencies and which bears the manufacturer's certification label or tag (21 CFR 1010.2) indicating that the product meets applicable radiation safety performance standards prescribed by the Food and Drug Administration under 21 CFR Part 1020. "Noncertified electronic products" are electronic products of a type subject to but manufactured before the effective date of such FDA performance standards; for example, an old model TV set or an electronic product which has been exempted from an applicable standard and is so labeled.

(b) Surplus certified and noncertified electronic products not required for transfer as excess personal property to Federal agencies in accordance with the provisions of § 101-43.313-12 shall be made available for donation screening for authorized public purposes, for nonprofit health and educational institutions, and for public airport purposes pursuant to the provisions of § 101-44-109 as follows:

(1) Pursuant to the provisions of § 101-44.108-10(c) in the case of noncertified:

(i) Color and black and white television receivers;

(ii) Microwave ovens;

(iii) Diagnostic X-ray systems and their major components;

(iv) Cabinet X-ray systems;

(v) Laser products; or

(vi) Any other electronic products for which FDA promulgates a performance standard; and

(2) Pursuant to the provisions of § 101-44.108-10(d) in the case of:

(i) Noncertified microwave ovens;

(ii) Certified and noncertified diagnostic X-ray systems and their major components;

(iii) Certified and noncertified cabinet X-ray systems; or

(iv) Noncertified laser products; and

(3) Only under conditions of destructive salvage in the case of noncertified cold-cathode gas discharge tubes.

(c) Donation of electronic products designated in paragraph (b)(1) of this section shall be accomplished as provided in § 101-44.109 provided the donee:

(1) Is appropriately warned that the item may not be in compliance with applicable radiation safety performance standards prescribed by FDA under 21 CFR Part 1020;

(2) Agrees the Government shall not be liable for personal injuries to, disabilities of, or death of the donee or the donee's employees, or any other person arising from or incident to the donation of the item, its use, or its final disposition; and

(3) Agrees to hold the Government harmless from any or all debts, liabilities, judgments, costs, demands, suits, actions, or claims of any nature arising from or incident to the donation of the item, its use, or its final disposition.

(d) Whenever donations of electronic products designated in paragraph (b)(2) of this section are for authorized public purposes, for nonprofit health and educational institutions, or for public airport purposes, or for service educational activities, the State agency, DOD, or FAA, as applicable, shall: (1) Provide the applicable State radiation control agency in which the donee is donee is located (see § 101-45.4809) with a copy of the donation document (SF 123, Transfer Order Surplus Personal Property) and include the name and address of the donee and a description of the item or items donated and (2) require that the donee certify on SF 123 that he:

(i) Is aware of the potential danger in using the product without a radiation test to determine the acceptability for use and/or modification to bring it into compliance with the radiation safety performance standard prescribed for the item under 21 CFR Part 1020, and agrees to accept the item from the holding agency for donation under those conditions;

(ii) Agrees the Government shall not be liable for personal injuries to, disabilities of, or death of the donee, the donee's employees, or any other person arising from or incident to the donation of the item, its use, or its final disposition; and

(iii) Agrees to hold the Government harmless from any or all debts, liabilities, judgments, costs, demands, suits actions, or claims of any nature arising from or incident to the donation of the item, its use, or its final disposition.

§ 101-44.109 Donation screening period.

(a) A period of 21 calendar days following the surplus release date (see § 101-43.001-21) shall be provided to set aside surplus reportable and nonreportable property determined to be usable and necessary for donation purposes in accordance with the provisions of Subparts 101-44.2, 101-44.4 and 101-44.5. Reportable surplus property will be set aside for donation when an application for donation, with an informational copy to the holding activity, is submitted to a GSA regional office for approval within the donation screening period. Nonreportable surplus property will be set aside for donation upon notification to a holding activity within the donation screening period by a responsible Federal official, a State agency representative, or an authorized donee representative that the property is usable and necessary for donation purposes. Each holding activity shall annotate nonreportable property records to indicate to authorized State agency or donee representatives or responsible Federal officials the date of the surplus determination by the holding agency.

(b) During the prescribed 21-day donation screening period, applications for surplus personal property will be processed by GSA regional offices in the following sequence:

(1) Department of Defense personal property reportable to GSA in accordance with § 101-43.311 will be reserved for public airport donation during the first 5 days of the donation screening period and during the next 5 days for service educational activities. During the remaining portion of the donation screening period, the property will be available on a first-come, first-served basis to all applicants.

(2) Executive agency personal property, other than personal property of the Department of Defense, reporta-

ble to GSA in accordance with § 101-43.311 will be reserved for public airport donation during the first 5 days of the donation screening period. During the remaining portion of the donation screening period, the property will be available on a first-come, first-served basis. This property is not available for donation to service educational activities.

(3) All executive agency personal property not reportable to GSA will be made available for donation on a first-come, first-served basis. Service educational activities are not eligible for donation of nonreportable surplus personal property of executive agencies other than the Department of Defense.

(c) A holding activity shall not take for its own use any property in its custody during the donation screening period following the determination that the property is surplus except as provided in § 101-44.101.

§ 101-44.110 Transfer orders for surplus personal property.

All transfers of surplus personal property to the State agencies for donation for authorized purposes to public agencies and eligible nonprofit tax-exempt activities, to service educational activities, and to public airports shall be accomplished by use of Standard Form (SF) 123, Transfer Order for Surplus Personal Property, and SF 123-A, Transfer Order-Surplus Personal Property (Continuation Sheet). The original and five copies of SF 123 shall be forwarded to the appropriate GSA regional office for approval, and an informational copy shall be sent to the holding activity.

[45 FR 56808, Aug. 26, 1980]

§ 101-44.111 Preparation and processing of transfer orders.

Applications for transfer shall be prepared and processed in accordance with the instructions illustrated at § 101-44.4901-123-1.

§ 101-44.112 Approval or disapproval of transfer orders.

(a) Surplus property shall not be released by a holding activity for donation until it has received an SF 123 bearing the signed approval of the appropriate GSA regional official. In approving the SF 123, GSA regional offices will comply with the sequence established in § 101-44.109. An SF 123 which is not fully or properly prepared may be returned to the applicant or held in suspense until the required information is made available. In those cases in which property is specifically requested for the purpose of secondary use (where the property is to be disassembled or cannibalized), a justification of the proposed action must accompany the transfer order. The following statement shall be included on the SF 123:

> "This property is requested for secondary use. When secondary use is to be accomplished by a donee, the property will be subject to the appropriate period of restriction until such time as disassembly or cannibalization has been accomplished and authorized disposal of the residue is accomplished."

Upon the request of a GSA regional office, the State agency (or the donee in the case of property donated under the provisions of Subparts 101-44.4 or 101-44.5) shall submit any additional information required to support and justify a donation application. The SF 123 will not automatically be held to the end of the screening period but will be approved and distributed as expeditiously as possible. An SF 123 received after the end of the donation screening period may be approved if the property is still available, and the holding activity has agreed to set the property aside pending receipt of donation approval.

(b) An SF 123 may be disapproved, in whole or in part, when it is determined that it is in the public interest to do so, when there is a substantive defect in the order, when the property is not surplus, or when a transfer of the property to a Federal agency is pending. The applicant and the holding activity will be informed in writing why the SF 123 was disapproved. When a donation transfer is disapproved because of a pending Federal transfer and the transfer is not completed subsequently, the applicant will be advised to resubmit SF 123.

[42 FR 56003, Oct. 20, 1977, as amended at 43 FR 26579, June 21, 1978]

§ 101-44.113 Rejection of property approved for transfer.

When a State agency or donee determines prior to pickup or shipment that property approved for transfer cannot be utilized, it shall so notify, through appropriate channels, the GSA regional office which approved the transfer, and the property will be released by GSA for other disposal. The GSA regional office may advise any other State agency known to be interested in the property of its possible availability and may approve a transfer request for donation purposes provided the holding activity agrees to retain the property pending the approval.

§ 101-44.114 Pickup or shipment.

(a) Surplus property set aside for donation shall be retained by the holding agency for a period not to exceed 42 calendar days from the surplus release date, pending receipt of the approved SF 123 and firm instructions for pickup or shipment of the property. At the end of this period, the holding activity may proceed with the disposal of the property if the approved SF 123 and pickup or shipping instructions have not been received.

(b) Upon receipt of the approved SF 123 and instructions for pickup or shipment, the holding activity shall promptly notify the transferee or his designated agent of the availability of the property The transferee or his agent shall remove the property within 15 calendar days from the date of notification of availability by the holding activity.

(c) The transferee is responsible for removing the property or for making arrangements with common carriers for its shipment. Property disposal officers or other representatives of holding activities shall not act as the agent or shipper for transferees in this regard.

§ 101-44.115 Overage and shortage reports.

(a) *Overages.* Upon receipt, when it is found that personal property from a Federal installation was not listed on an approved SF 123 or the quantities exceeded the amount approved by GSA on SF 123, the State agency, or the donee in the case of property donated under the provisions of Subparts 101-44.4 or 101-44.5, shall prepare and submit to the GSA office for the region in which the holding activity is located, with a copy to the holding activity, an overage report listing all such property. The reporter shall provide a description of each line item of property not approved for donation, the estimated condition, the estimated fair market value (or acquisition cost if known), and the name of the holding activity from which the property was received. However, when the estimated fair value or acquisition cost of a line item of property is more than $500, it shall be listed on SF 123, and the SF 123 shall be sent to the GSA regional office for approval. In the case of property received by a public airport pursuant to Subpart 101-44.5, the overage report or SF 123 shall be forwarded to GSA through FAA.

(b) *Shortages.* When it is found that line items or portions of line items of property approved on SF 123 were not received, the State agency, or the donee in the case of property donated under the provisions of Subparts 101-44.4 or 101-44.5, shall submit to the GSA office for the region in which the holding activity is located, with a copy to the holding activity, a shortage report covering the property not received. Shortage reports covering property approved for donation to a public airport pursuant to Subpart 101-44.5 shall be forwarded to GSA through FAA.

(c) *Information.* The overage or shortage report, or the SF 123 in the case of a line item overage of more than $500, shall be signed by the responsible State agency or donee representative and shall provide the following information.

(1) Name and address of the holding activity;

(2) All pertinent control numbers including the holding activity turn-in document number, the GSA control number if property was reported to GSA, and the State agency or donee transfer order number; and

(3) A description of each line item of property, whether it is a shortage or an overage, the condition code (estimated if an overage), the quantity and unit of issue, and the unit and total acquisition cost (estimated if an overage).

§ 101-44.116 Certification of screeners.

(a) All State agency and donee representatives wishing to visit Federal activities for the purpose of screening and selecting surplus personal property for donation in accordance with Subparts 101-44.2, 101-44.4, and 101-44.5 must be authorized and certified by GSA. Requests for certification of donee screeners shall be submitted to GSA by the appropriate State agency for the purposes of Subpart 101-44.2 by the Department of Defense (DOD) for the purposes of Subpart 101-44.4, and by the Federal Aviation Administrtation (FAA) for the purposes of Subpart 101-44.5.

(b) The agency recommending the designation of a donee screener shall prepare a request to inform GSA of the proposed designation and forward it for evaluation and approval to the appropriate GSA regional office serving the region in which the intended screener is located. (See § 101-43.4802 for regional offices, addresses, and assigned areas.) The request shall state the applicant's qualifications to screen surplus personal property, indicate the name and address of the State agency or donee activity the prospective screener represents, and certify the applicant to be an authorized representative of the cited organization. A list of the Federal installations the screener will be authorized to visit shall accompany each request. The list of Federal installations should be limited to those within the applicable State except where there are particular reasons why State agency screeners or donee screeners should regularly visit installations outside the State. Special requests for State agency or donee screeners to visit installations outside the State or region on a regular or one-time basis may be authorized by the GSA regional offices involved. The recommending agency shall select qualified screeners representing public agencies within the State and other eligible donee organizations in order to expedite the movement of surplus property and enhance the opportunities of those public agencies and organizations to identify and select needed and useful items of property. GSA will give special consideration to requests of individual donees submitted through recommending agencies for allocation of specific items of property.

(c) Recommending agencies shall accompany each request for certification of a donee screener with GSA Form 2946, Screener's Identification (illustrated at § 101-43.4902-2946). GSA Forms 2946 must contain the typed names of the screener's organization and sponsoring agency, the signature and type name of the proposed screener, an affixed passport-style photograph of the screener, and the signature of the sponsoring agency official.

(d) In order to avoid proliferation of screeners, the GSA regional office will review requests for donee screening authorizations to ensure that the number of screeners requested by each designated activity is reasonable in relationship to the scope of the donee's program and that the screeners are qualified to perform this service. Following review, the GSA regional office, if the request is approved will complete the GSA Form 2946 and return it to the recommending agency for issuance to the screener. Each GSA regional office will control the activities of donee screeners at Federal installations within its region. The regional office may screeners' vists or require a reduction in their number when it becomes evident that the volume of surplus personal property at an installation does not warrant the level of screening activity or that a proliferation of screeners is affecting adversely the installation's property disposal activity. All GSA Forms 2946 shall be recovered by the recommending agency upon expiration or termination of the screener's authorization and shall be forwarded to the validating GSA office for cancellation.

(e) Each State agency or other donee representative physically screening property at holding installations for the purpose of selecting property for donation shall possess a GSA

Form 2946 validated by GSA as provided in this § 101-44.116. However, representatives visiting holding activities in order to participate in onsite screenings in accordance with § 101-44.106, or for the purpose of technical inspection, evaluation, and/or removal of specific property previously set aside or approved by GSA for donation, shall not be required to possess a GSA Form 2946.

§ 101-44.117 Recovery of property for Federal use.

Occasionally, Federal agencies may develop on an exigency basis requirements for personal property items derived from surplus sources in the possession of a State agency. The State agency should cooperate with GSA in the recovery of property to fulfill Federal needs. The transfer will be subject to payment by the acquiring agency of the costs of care and handling, including transportation that were incurred by the State agency initially acquiring this property.

§ 101-44.118 Nondiscrimination.

(a) Title VI of the Civil Rights Act of 1964 provides that no person in the United States shall on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

(b) Title VI, section 606 of the Federal Property and Administrative Services Act of 1949, as amended, provides that no individual shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity carried on on receiving Federal assistance under the act.

(c) Section 504 of the Rehabilitation Act of 1973, as amended, provides that no otherwise qualified handicapped person shall, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

(d) Section 303 of the Age Discrimination Act of 1975 provides that "no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

(e) These titles apply to programs covered by Subpart 101-6.2. Any complaints alleging violations of these titles or any inquiries concerning applicability to the programs covered by this Part 101-44 shall be referred to the Commissioner, Federal Property Resources Service (D), General Services Administration, Washington, DC 20406.

[42 FR 56003, Oct. 20, 1977, as amended at 45 FR 56808, Aug. 26, 1980]

§ 101-44.119 Termination of restrictions.

Pursuant to Pub. L. 94-519, all terms, conditions, and registrictions imposed pursuant to section 203(j)(5) of the Federal Property and Administrative Services Act of 1949, as amended, in effect prior to October 17, 1976, on the use of any item of personal property donated pursuant to section 203(j)(3) or section 203(j)(4) prior to October 17, 1977, with the exception of those terms, conditions, and restrictions imposed on the transfer of combat-type aircraft, shall terminate and shall no longer be applicable on or after November 16, 1977. This section shall not be deemed to terminate any civil or criminal liability arising out of a violation of such term, condition, reservation, or restriction which occurred prior to October 17, 1977 if a judicial proceeding to enforce such liability is pending on October 17, 1977, or is commenced within 1 year after October 17, 1977.

Subpart 101-44.2—Donations to Public Agencies and Eligible Nonprofit Tax-Exempt Activities

§ 101-44.200 Scope of subpart.

This subpart prescribes the authorities, responsibilities, policies, and methods governing the donation of surplus personal property within the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa to:

(a) Any public agency for use in carrying out or promoting for the residents of a given political area one or more public purposes, such as conservation, economic development, education, parks and recreation, public health, and public safety;

(b) Educational or public health institutions or organizations, such as medical institutions, hospitals, clinics, health centers, schools, colleges, universities, schools for the mentally handicapped, child care centers, educational radio and television stations licensed by the Federal Communications Commission, museums attended by the public, and libraries serving free all residents of a community, district, State or region, which are exempt from taxation under section 501 of the Internal Revenue Code of 1954, for purposes of education or public health, including research for purposes; or

(c) Any State or local government agency, and any nonprofit organization or institution agency and nonprofit activity which receive funds appropriated for programs for older individuals under the Older Americans Act of 1965, as amended, under Title IV or Title XX of the Social Security Act, or under the Economic Opportunity Act of 1964.

[45 FR 56809, Aug. 26, 1980]

§ 101–44.201 Authority.

(a) The Administrator of General Services is authorized at his discretion and under such regulations as he may prescribe to transfer without cost (except for cost of care and handling) and personal property which has been determined to be surplus property under the control of any executive agency to the State agency in each State designated under State law as the agency responsible for the fair and equitable distribution through donation, of all property transferred in accordance with this subpart and Subpart 101-44.4.

(b) In determining whether the property is to be transferred for donation in accordance with this subpart, no distinction shall be made between property capitalized in a working-capital fund established under section 2208 of Title 10, United States Code, or any similar fund, and any other property.

§ 101–44.202 State plan of operation.

This section set forth procedures and requirements for the submission, continued evaluation, and operation of State plans submitted under section 203(j)(4) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) (hereinafter called the act) for the development and implementation of standards applicable to the operation of the State agency in each State designated under State law as the agency responsible for the fair and equitable distribution, through donation, of all property transferred in accordance with this subpart and Subpart 101-44.4. Section 203(j)(4)(A) of the act provides that before property may be transferred to any State agency, the State shall develop, according to State law, a detailed plan of operation in conformity with the provisions of section 203(j)(4) of the act, which shall include adequate assurance that the State agency has the necessary organizational and operational authority and capability, including staff, facilities, means and methods of financing, and procedures with respect to: Accountability internal and external audits, cooperative agreements, compliance and utilization reviews, equitable distribution and property disposal, determination of eligibility, and assistance through consultation with advisory bodies and public and private groups.

(a) *State action.* The act further provides that the chief, executive officer of the State shall certify and submit a plan of operation developed by the State legislature to the Administrator. If a State legislature had not developed the State plan by July 14, 1977, the chief executive officer of the State shall had approved and submitted a temporary State plan to the Administrator.

(b) *General notice.* In accordance with the act no plan of operation and no major amendment thereof shall be filed with the Administrator until 60 calendar days after general notice of the proposed plan has been published, and interested persons have been given at least 30 calendar days during which to submit comments. In developing and implementing the plan the State shall take into consideration the relative needs and resources of all public agencies and other eligible institutions within the State. Assurance shall be provided in the State plan that such public notice and such time for public comment was provided prior to submission of the plan and that such consideration of relative needs and resources of all donees in the State was given in the preparation of the plan.

(c) *Specific assurances.* A State plan for the establishment and operation of a State agency for surplus property distribution to eligible donees shall provide the following information and assurances. (A State may include in its plan other provisions not inconsistent with the purposes of the act and the requirements of this Part 101-44):

(1) *Authority.* The chief executive officer of the State shall submit the State plan of operation to the Administrator as follows:

(i) If the State legislature developed, according to State law, a plan of operation the chief executive officer shall submit the plan and certify that the State agency is authorized thereby to acquire, warehouse, and distribute surplus property to all eligible donees in the State to enter into cooperative agreements pursuant to the provisions of § 101-44.206 if the State contemplates entering into cooperative agreements, and to undertake other actions and provide other assurances as set forth in the plan of operation; or

(ii) If the State legislature had not developed, according to State law, a plan of operation by July 14, 1977, the chief executive officer of the State shall have approved a temporary State plan and submitted it to the Administrator. Copies of existing State statutes and/or executive orders relative to the operational authority of the State agency shall have accompanied the State plan. Where express statutory authority did not exist or was ambiguous, or where authority existed by virtue of executive order, the State plan shall have included also the opinion of the State's Attorney General regarding the existence of such authority.

(2) *Designation of State agency.* The plan shall designate a State agency which will be responsible for administering the plan throughout the State. The plan shall describe the responsibilities vested in the agency and shall provide details concerning the organization of the agency, including supervision, staffing, structure, and physical facilities. The plan shall also indicate the organizational status of the agency within the State governmental structure and the title of the State official who directly supervises the State agent.

(3) *Inventory control and accounting systems.* The State plan shall require the State agency to use a management inventory control system and and accounting system for donable property of the same type as is required by State law for State-owned property, except that the State agency, with the approval of the chief executive officer of the State, may elect in lieu of such systems to utilize such other management control and accounting systems as are effective to govern the utilization, inventory control, accountability, and disposal of donable surplus property. The plan shall set forth the details of the inventory control and accounting systems which will be used by the State agency.

(4) *Return of donated property.* The State plan shall require the State agency, and shall set forth appropriate procedures therefor, to provide for the return of donable property to the State agency for further distribution if such property while still usable, as determined by the State agency, has not been placed in use for the purposes for which it was donated within 1 year of donation or ceases to be used by the donee for such purposes within 1 year of being placed in use.

(5) *Financing and service charges.* The State plan shall set forth the means and method by which the State agency will be financed. When the State agency is authorized to assess and collect service charges from participating donees to cover direct and reasonable indirect costs of its activities, the method of establishing such

charges shall be set forth in the plan. Such charges shall be fair and equitable and shall be based on services performed by the State agency, including but not limited to screening, packing, crating, removal, and transportation. In cases in which the State agency provides minimumal service in connection with the acquisition of property, except for document processing and other administrative actions, the charge levied by the State agency shall be minimal. The State plan shall provide for minimal charges to be assessed in such cases and include the bases of computation. The plan of operation shall set forth how funds accumulated from service charges, including any funds accumulated from donee service charges before October 17, 1977, or from other sources such as sales or compliance proceeds, are to be used for the operation of the State agency and the benefit of participating donees. Service charge funds may be used to cover direct and indirect costs of the State agency's operation, to purchase necessary equipment, and to maintain a reasonable working capital reserve. Such funds may be deposited or invested as permitted by State law, provided the plan of operation sets forth the types of depositories and/or investments contemplated. Service charge funds may be used for the purpose of rehabilitating donable surplus property, including the purchase of replacement parts. Subject to State authority and the provisions of the plan of operation, the State agency may expend service charge funds to acquire or improve office or distribution center facilities. When such acquisition or improvements are contemplated, the plan shall set forth what disposition is to be made of any financial assets realized when the facilities are sold or otherwise disposed of. When refunds of service charges in excess of the State agency's working capital reserve are to be made to participating donees, the plan shall so state and provide details of how such refunds are to be made, such as a reduction in service charges or a cash refund, prorated in an equitable manner.

(6) *Terms and conditions on donable property.* The State plan shall require the State agency to impose terms, conditions, reservations, and restrictions on the donee in the case of any item of property having a unit acquistion cost of $3,000 or more and any passenger motor vehicle. The specific terms, conditions, reservations, and restrictions which the State agency requires shall be set forth in the plan. In addition, the State plan shall provide that the State agency may impose reasonable terms, conditions, reservations, and restrictions on the use of donable property other than items with a unit acquisition cost of $3,000 or more and passenger motor vehicles. Any such terms, conditions, reservations, and restrictions which the State agency elects to impose should be set forth in the plan. The State agency may amend, modify, or release such terms conditions, reservations, or restrictions subject to the provisions of § 101-44.208(g) provided it sets forth in the plan the standards by which the State agency will grant any such amendments, modifications, or releases. The State plan also shall provide assurance that the State agency will impose on the donation of a surplus item of items, regardless of unit acquisition cost, such conditions involving special handling of use limitations as the Administrator may determine necessary because of the characteristics of the property, pursuant to § 101-44.108.

(7) *Nonutilized donable property.* The State plan shall provide that donable surplus property in the possession of the State agency which cannot be utilized by donees in the State shall be disposed of:

(i) Subject to the disapproval of the Administrator within 30 days after notice to him, through transfer by the State agency to another State agency or through abandonment or destruction where the property has no commercial value or the estimated cost of its continued care and handling would exceed the estimated proceeds from sale (Transfers of nonutilized donable property and destruction or abandonment shall be accomplished by the State agency in accordance with the provisions of § 101-44.205); or

(ii) Otherwise, under such terms and conditions and in such a manner as may be prescribed by the Administrator pursuant to the provisions of § 101-44.205.

(8) *Fair and equitable distribution.* The State agency is responsible for the fair and equitable distribution of surplus personal property through donation to all eligible donees in the State. The State plan shall provide for the fair and equitable distribution of property within the State based on the relative needs and resources of interested public agencies and other eligible institutions within the State and their abilities to utilize the property. The State plan shall set forth the policies and detailed procedures for effecting a prompt, fair, and equitable distribution. The State plan shall also require that the State agency, insofar as practicable, select property requested by a public agency or other eligible institution within the State and, when so requested by the recipient, arrange for shipment of the property direct to the recipient.

(9) *Eligibility* The State plan shall set forth procedures for the State agency to determine the eligibility of applicants for the donation of surplus personal property. Standard and guidelines for the determination of eligibility are provided in § 101-44.207.

(10) *Compliance and utilization.* The State agency shall effect utilization reviews for compliance by donees with the terms, conditions, reservations, and restrictions imposed by the State agency for any item of property having a unit acquisition cost of $3,000 or more and any passenger motor vehicle. Such reviews shall include also a review of compliance by the donees with any special handling conditions or use limitations imposed on items of property by the Administrator, pursuant to § 101-44.108. The State plan shall set forth the provisions for and the proposed frequency of such reviews and shall provide adequate assurances that effective action shall be taken by the State agency to correct noncompliance or otherwise enforce such terms, conditions, reservations and restrictions. Reports on utilization reviews and compliance actions shall be prepared by the State agency. The State plan shall provide adequate assurance that the State agency shall initiate appropriate investigations of alleged fraud in the acquisition of donated property or misuse of such property. The State agency shall notify immediately the Federal Bureau of Investigation (FBI) and GSA of any cases involving alleged fraud. Further, GSA shall be advised of any misuse of donated property. The State agency shall assist GSA or other responsible Federal or State agencies in investigation such cases upon request.

(11) *Consultation with advisory bodies and public and private groups.* The State plan shall provide for consultation by the State agency with advisory bodies and public and private groups which can assist the State agency in determining the relative needs and resources of donees, the utilization of donable property by eligible donees, and how distribution of donable property can be effected to fill existing needs of donees. Details of how the State agency will establish such consultation shall be set forth in the plan. In allocating and transferring surplus personal property among the States, the Administrator will give fair consideration, consistent with the provisions of § 101-44.203, to expressions of need and interest transmitted through a State agency on the part of public agencies and other eligible donee institutions and organizations within a State. The Administrator will give special consideration to requests transmitted through a State agency by eligible recipients for specific items of property.

(12) *Audit.* The State plan shall provide for periodic internal and external audits of the operations and financial affairs of the State agency. An external audit shall be made at least every 2 years in accordance with generally accepted audit standards by an appropriate State authority or by an independent certified public accountant or independent licensed public accountant who is certified or licensed by a regulatory authority of the State or other subdivision of the United States. External audits shall include a review of the conformance of the State agency with the provisions of the State plan of operation and the requirements of this Part 101-44. A copy of the external audit shall be furnished in a timely manner to the ap-

propriate GSA regional office, and that office shall be advised by the State agency of all corrective action taken with respect to any exceptions or violations indicated by the audit. Periodically, GSA representatives may visit the State agency to coordinate program activities and review the State agency operations. GSA may, for appropriate reasons, conduct its own audit of the State agency following due notice to the chief executive officer of the State of the reasons for such audit. Financial records and all other books and records of the State agency shall be made available for inspection by representatives of GSA, the General Accounting Office, or other authorized Federal activities.

(13) *Cooperative agreements.* Section 203(n) of the act authorizes the Administrator (or the head of any Federal agency designated by him) to enter into cooperative agreements with State surplus property distribution agencies. The provisions of section 203(n) and the implementing regulations are set forth in § 101-44.206. A State agency desiring to enter into such cooperative agreements or to renew or revise existing agreements shall affirm its intentions in the State plan and cite the authority called for in § 101-44.202(c)(1).

(14) *Liquidation.* The State plan shall provide for the submission of a liquidation plan to the Administrator when a determination is made to liquidate the State agency. The liquidation plan shall be submitted before the actual termination of the State agency activities and shall include:

(i) Reasons for the liquidation;

(ii) A schedule for liquidating the agency and the estimated date of termination;

(iii) Method of disposing of surplus property on hand, consistent with the provisions of § 101-44.205;

(iv) Method of disposing of the agency's physical and financial assets; and

(v) Retention of all available books and record of the State agency for a 2-year period following liquidation.

(15) *Forms.* Copies of distribution documents used by the State agency shall be included in the State plan.

(16) *Records.* The State plan shall provide for the retention of official records of the State agency for a period of not less than 3 years, provided that in cases involving property subject to restrictions for more than 2 years, records shall be kept 1 year beyond the specified period of restriction. In cases in which property is in compliance status at the end of the period of restriction, the State plan shall provide for the retention of the records for at least 1 year after the case is closed.

(d) *Implementation.* (1) A State plan of operation developed by the State legislature and certified by the chief executive officer of the State shall be in effect and binding upon the State beginning with the date that the Administrator notifies the chief executive officer of the State that the plan conforms to the provisions of section 203(j)(4) of the act and the requirements of this Part 101-44 and that allocation and transfer of donable surplus property to the State agency will commence. Such plan of operation shall remain in effect until such time as the Administrator may accept revisions developed by the State legislature and certified by the chief executive officer of the State.

(2) A temporary State plan approved by the chief executive officer of the State shall be in effect and binding upon the State beginning with the date the Administrator notifies the chief executive officer of the State that the plan conforms to the provisions of section 203(j)(4) of the act and the requirements of this Part 101-44 and that allocation and transfer of donable surplus property to the State agency will commence, until the Administrator accepts revisions proposed by the chief executive officer of the State or until the State legislature develops a plan of operation for the State agency and the plan is certified by the chief executive officer of the State and submitted to and accepted by the Administrator. Once in effect, major amendment or modification shall not be made to the plan except in accordance with the requirements of this section.

(3) GSA may, from time to time, propose modifications or amendments to the provisions of this Part 101-44. In such cases reasonable opportunity will, insofar as practicable, be afforded

the State agencies to conform to any such regulatory changes affecting their operations.

(e) *Nonconformance.* When the Administrator determines that a State plan does not conform to the requirements of the act or the provisions of this Part 101-44, or subsequently that the State agency does not operate in accordance with the provisions of the plan, allocation and transfer of surplus donable property may be withheld until the nonconformance is corrected.

[42 FR 56003, Oct. 20, 1977; 42 FR 61043, Dec. 1, 1977]

§ 101-44.203 Allocation of donable property.

Allocation of donable property will be made by GSA on a fair and equitable basis. The following criteria will be applied by GSA in effecting allocation and transfer of surplus personal property among the States:

(a) Need and usability of property as reflected in selections of property by a State agency, including expressions of need and interest on the part of public agencies or other eligible donees within the State, transmitted through the State agency to GSA. Special consideration will be given by GSA to requests transmitted through the State agency by eligible donees for specific items of property.

(b) Regions or States in greatest need of the type of property to be allocated, where a particular and important need is evidenced by a justification accompanying the expression of need.

(c) Extraordinary needs occasioned by disasters.

(d) The quantity of property of the type under consideration which was previously allocated to or is potentially available to a State agency from a more advantageous source.

(e) Performance of a State agency in effecting timely pickup or removal of property allocated to the State and approved for transfer by GSA.

(f) Performance of a State agency in effecting prompt distribution of property to eligible donees.

(g) Equitable distribution based on the existing condition as well as the original acquisition cost of the property available for donation.

(h) Equitable distribution based on the ratio of population and per capita income of each State.

§ 101-44.204 Certification and agreement by a State agency.

(a) *Certification.* A State agency, in making a request to GSA for the transfer of donable surplus personal property, shall certify that:

(1) It is the agency of the State designated under State law, and as such has legal authority within the meaning of section 203(j) of the act and GSA regulations, to receive surplus property for distribution within the State to eligible donees within the meaning of the act and GSA regulation;

(2) The property is usable and needed by a public agency for one or more public purposes, such as conservation, economic development, education, parks and recreation, public health, public safety, and programs for older individuals, by an eligible nonprofit organization or institution which is exempt from taxation in the State under section 501 of the Internal Revenue Code of 1954, for the purpose of education or public health (including research for any such purpose) or by an eligible nonprofit tax-exempt activity for programs for older individuals;

(3) When property is picked up by or shipped to a State agency, it has available adequate funds, facilities, and personnel to effect accountability, warehousing, proper maintenance, and distribution of the property; and

(4) When property is distributed by a State agency to a donee, or when delivery is made direct from a holding activity to a donee, the donee acquiring the property is eligible within the meaning of the act and GSA regulations, and that the property is usable and needed by the donee.

(b) *Agreement.* With respect to donable property picked up by or shipped to a State agency, the State agency shall agree to the following;

(1) The right to possession only is granted and the State agency will make prompt statewide distribution of

the same, on a fair and equitable basis, to donees eligible to acquire property under section 203(j) of the act and GSA regulations, after such eligible donees have properly executed the appropriate certifications and agreements established by the State agency and/or GSA.

(2) Title to the property shall remain in the United States of America although the State shall have taken possession thereof. Title to the property shall pass to the eligible donee when the donee executes the certifications and appropriate agreements required by the State agency and has taken possession of the property.

(3) The State agency shall: (i) Pay promptly the cost of care, handling, and shipping incident to taking possession of the property;

(ii) During the time that title remains in the United States of America, be responsible as a bailee for mutual benefit for the property from the time it is released to the State agency or to the transportation agent designated by the State agency; and

(iii) In the event of any loss of or damage to any or all of the property, file a claim and/or institute and prosecute to conclusion the proceedings necessary to recover for the account of the United States of America the fair value of any of the property lost or damaged.

(4) Surplus property hereafter approved for transfer by GSA for donation shall not be retained by the State agency for use in performing its functions unless the use of such property is authorized by GSA in accordance with the provisions of a cooperative agreement entered into between the State agency and GSA.

(c) *Interstate distribution.* Where an applicant State agency is acting under an interstate distribution agreement approved by GSA as an agent and authorized representative of an adjacent State with which it shares a common boundary the certifications and agreements required above shall also be made by the applicant State agency respecting the donees in the adjacent State to which distribution will be made and the property to be distributed in the adjacent State, and these certifications and agreements shall constitute the certifications and agreements of the adjacent State on whose behalf and as whose authorized representative the applicant State agency is acting.

[42 FR 56003, Oct. 20, 1977, as amended at 45 FR 56809, Aug. 26, 1980]

§ 101-44.205 Property in the possession of a State agency.

(a) *Status.* With respect to surplus personal property shipped to or picked up by a State agency for distribution through donation to eligible donees within the State, the right to possession only is granted to the State agency. Title to the property shall remain in the United States of America, although the State shall have taken possession thereof. Title to the property shall pass to the eligible donee when the donee executes the appropriate certifications and agreements and has taken possession of the property. The State agency may disassemble or cannibalize an item of donable property in its possession when it determines that the usable parts and components thereof have greater donation potential than that for which the complete item was originally manufactured. The State agency may retain and use surplus personal property in its possession for the purpose of performing its function pursuant to the provisions of § 101-44.206.

(b) *Protection.* During the time title remains in the United States of America the State agency shall:

(1) Be responsible as a bailee for mutual benefit for surplus personal property transferred to it by GSA from the time it is released to the State or to the transportation agent designated by the State, and in the event of any loss of or damage to any or all of the property, the State agency shall promptly notify GSA and file a claim and/or institute and prosecute to conclusion the proceedings that are necessary to recover, for the account of the United States of American, the fair value of any property lost or damages, less the cost of care and handling incurred by the State agency in acquiring the property;

(2) Maintain adequate provision for protecting property in its custody including protection against the hazards of fire, theft, vadalism, and weather; and

(3) Promptly notify appropriate law officials including the FBI and GSA of any damage to or loss of property in its custody due to theft, vandalism, arson, or other unusual circumstances and shall provide full information concerning the circumstances. GSA shall be informed of any other types of damages to or loss of property which is in the possession of the State agency.

(c) *Insurance.* It is GSA policy not require a State agency to carry insurance as a condition for acquiring Federal surplus personal property for distribution to eligible recipients. However, when a State agency carries insurance against damage to or loss of property due to fire or other hazards and when loss of or damage to Federal surplus personal property occurs, GSA, on behalf of the United States of American, will be entitled to reimbursement from the State agency of the fair value of the damaged or destroyed Federal property payable from the insurance proceeds, less the State agency's actual cost of acquiring and rehabilitating the property prior to its damage or destruction.

(d) *Distribution.* Surplus personal property in the custody of a State agency shall be distributed promptly to eligible donees within the State.

(e) *Direct shipment.* In order to reduce inventory, warehousing, and transportation costs and to ensure prompt utilization of donable surplus property, the State agency shall, insofar as practicable, when requested by the designated donee, arrange for or provide shipment of the property from the Federal holding agency direct to the recipient.

(f) *Transfer between States.* When a State agency determines that surplus personal property in its possession cannot be utilized by eligible recipients within the State, its shall offer the property for transfer to surplus property agencies in other States. GSA encourages prompt transfer of property between the States. A State agency may arrange for visits to its distribution facilities by representatives of other State surplus property agencies to inspect and select unneeded property available for transfer. GSA regional offices, upon request, will assist in making known to other States unneeded property in one State which is available for transfer and in arranging and coordinating visits between State agencies. Transfers of property between States will be accomplished by processing SF 123, Transfer Order Surplus Personal Property, submitted by the requesting State through the GSA regional office for the releasing State. Transfers of unneeded surplus property between State agencies are subject to the disapproval of the Administrator within 30 days after notice to him.

(g) *Reporting unneeded property.* A State agency at any time may report unneeded usable property in its possession which is not required for transfer to another State in the GSA regional office for redistribution or disposal. In reporting property to GSA, the State agency shall:

(1) Provide the best possible description of each line item of property and its current condition code, quantity, and unit total acquisition cost;

(2) Identify the date of receipt by the State agency of each line item of property listed;

(3) Indicate those items which the State agency believes may be of interest to Federal agencies; and

(4) Provide certification of reimbursement claimed for each line item.

(h) *Reutilization.* Based on the information provided by the State agency, the GSA regional office may offer available property for recovery by Federal agencies. Any transfer order for that property will be approved by GSA and forwarded to the releasing State agency for appropriate action.

(i) *Disposal.* Sale of undistributed property in the possession of a State agency will be initiated by the GSA regional office in accordance with the provisions of Part 101-45. The GSA regional office will inform the State agency of the items to be sold and will work closely with the State agency in the preparation and prompt completion of the sale. Property available for sale may be turned in by a State agency to a GSA property or sales center with the approval of the GSA regional office which operates the center.

(j) *Reimbursement.* Reimbursement for costs of care and handling to a State agency with respect to the transfer or disposal of donable property in its possession will be authorized by GSA as follows:

(1) When a State agency acquires donable property by transfer from another State agency, reimbursement of costs incurred by the releasing State agency in acquiring the property, including packing, handling, and transportation costs, shall be established by mutual agreement between the two State agencies.

(2) When a Federal activity requests property from a State agency, costs incurred by the State agency in acquiring the property, including packing, handling, and transportation costs, shall be reimbursable at the time the property is transferred to the Federal activity. The SF 123 used in effecting the transfer must show the amount of reimbursement claimed by the releasing State agency.

(3) When donable property in the possession of a State agency is required for disaster assistance, reimbursement to the State agency will be governed by the provisions of § 101-44.105.

(4) When disposing of undistributed property in the possession of a State agency by public sale, GSA may authorize reimbursement to the State agency for expenses related to care and handling incurred by the State agency in acquiring the property from within or outside the United States. Certification by the State agency of costs incurred is required and must be supported by documentation if requested by GSA. Reimbursement for each item or lot sold shall not exceed the proceeds from each individual item or lot. Reimbursement shall not be made to the State agency for actions subsequent to the receipt of property by the State agency from any source, including unloading, moving, repairing, preserving, or storing, except as authorized in paragraph (j)(4)(iii) of this section. Reimbursement will not be authorized by GSA for property acquired from any source if the property has been in the possession of the State agency for a period of 2 years from the date it was received by the State agency until the date it was reported to GSA for disposal. Costs of transporting property to a GSA property center or sales center or to a location outside a State agency distribution facility are not reimbursable unless transportation was specifically required by GSA. The sale of property at a GSA property center or sales center or at a location outside the State distribution facility, however, does not preclude authorized reimbursement to the State agency. Reimbursement is limited to:

(k) *Destruction or abandonment.* When a State agency finds that it has property in its possession that is unusable by donees in the State or other States and otherwise is determined to have no commercial value or if the estimated cost of its continued care and handling would exceed the estimated proceeds from its sale, the State agency shall proceed promptly with the destruction or abandonment of such property subject to the disapproval of GSA within 30 days of notice to it by the State agency. Destruction or abandonment of property shall be accomplished in accordance with the findings and the processes prescribed in Subpart 101-45.5.

[42 FR 56003, Oct. 20, 1977, as amended at 45 FR 36077, May 29, 1980]

§ 101-44.206 Cooperative agreements.

This section provides policies and procedures for the establishment of cooperative agreements between GSA (or the head of any Federal agency designated by the Administrator of General Services) and a State agency for the use of property, facilities, personnel, and services, with or without payment or reimbursement and under the provisions of a cooperative agreement, for the use by the State agency of any surplus personal property in its possession subject to conditions imposed by the Administrator.

(a) *Authority.* Section 203(n) of the Federal Property and Administrative Services Act of 1949, as amended, provides that the Administrator (or the head of any Federal agency designated by him), for the purpose of carrying into effect the provisions of section 203(j) of the act, is authorized to enter into cooperative agreements with State surplus property distribution agencies designated in conformity with that section. Those cooperative agreements may provide for utilization by the Federal agency, with or without payment or reimbursement, of the property, facilities, personnel, and services of the State agency in carrying out its program. Those arrangements may also provide for making available to the State agency, with or without payment or reimbursement, property, facilities, personnel, or services of the Federal agency in connection with such utilization. Payment or reimbursement, if any, from the State agency shall be credited to the fund or appropriation against which charges would be made if no payment or reimbursement were received. In addition, under cooperative agreements and subject to other conditions that may be imposed by the Administrator, any surplus property transferred to the State agency for distribution pursuant to section 203(j)(3) of the act may be retained by the State agency for use in performing its functions. Unless otherwise directed by the Administrator, title to property so retained shall be vested in the State agency.

(b) *Use of property, facilities, personnel, and services.* (1) GSA may enter into a cooperative agreement with a State agency to furnish to the State agency available property, facilities, personnel, or services of GSA that are found by GSA and the State agency to be necessary and useful in assisting the State agency to distribute and use surplus donable personel property and otherwise to carry out the purposes of the act. Assistance may include furnishing Federal Telecommunications System (FTS) service on a reimbursable basis. It may also include furnishing available office space and related support such as office furniture and typewriters in GSA regional offices, property centers, or field offices to State agency screeners or administrative clerical employees to assist them in screening and processing donable property for donation. Assistance will be provided by GSA, to the extent possible, without reimbursement; however, any extraordinary costs incurred by GSA in providing assistance shall be on a reimbursable basis.

(2) GSA may enter into a cooperative agreement with a State agency for the purpose of the State agency furnishing available property, facilities, personnel, or services that are found by GSA and the State agency to be necessary and useful in assisting GSA to screen, transfer, and allocate surplus donable personal property and otherwise to carry out the purposes of the act. The provision of property, facilities, personnel, or services may be with or without payment or reimbursement to the State agency.

(3) When a Federal agency designated by GSA wishes to enter into a cooperative agreement with a State agency (or a State agency with a Federal agency) for the provision of property, facilities, personnel, or services to carry into effect the donation provisions of the act, and the Federal agency and the State agency are mutually agreeable to an arrangement, GSA may concur in the establishment of a cooperative agreement and assist in its development. Payment or reimbursement shall be a matter for resolution between the Federal agency and the State agency.

(c) *Use of surplus property by a State agency.* A State agency may enter into a cooperative agreement with GSA providing for the retention by the State agency of items of surplus personal property transferred to it for distribution that are needed for the State agency in performing its donation functions. The State agency shall submit a listing of needed property from time to time to the appropriate GSA regional office. GSA will review the list to ensure that it is of the type and quantity of property which is reasonably needed and useful to the State agency in performing its function. Unless GSA disapproves the retention of the property within 30 days of receipt of the listing, title to the property shall vest in the State agency. Separate records shall be maintained by the State agency for the property.

(d) *Interstate cooperative distribution agreements.* GSA may concur in a cooperative agreement between two States which have contiguous boundaries whereby one State agency agrees to disbribute donable surplus property to certain specified donees in the adjoining State. Agreements may be considered when the donees, because of their geographic proximity to the property distribution centers of the adjoining State, could be more efficiently and economically serviced than by their own State surplus property facilities. The payment or reimbursement of service charges by the donee shall be a matter for the mutual agreement between the State agencies. By entering into an interstate cooperative distribution agreement, the State agreeing to service donees in an adjoining State shall agree, as agent for the adjoining State agency, to:

(1) Make certifications and agreements required by § 101-44.204; and

(2) Require the donee to execute the distribution of documents of the State agency in which the donee is located. Copies of distribution documents shall be forwarded to the adjoining State agency.

(e) *Termination of agreements.* Cooperative agreements entered into between GSA and a State agency may be terminated by either party upon 60 days written notice to the other party. Termination of an agreement between a Federal agency designated by GSA and a State agency, and interstate cooperative distribution agreements, shall be as mutually agreed to by the parties.

§ 101-44.207 Eligibility.

This section sets forth the standards, guidelines,and procedures for determination of eligibility for public agencies and eligible nonprofit tax-exempt activities in each State to participate in the surplus personal property donation program, to receive surplus property through a State agency, and to use this property for the purposes authorized by the Federal Property and Administrative Services Act of 1949, as amended, and by section 214 of the Older Americans Act of 1965, as amended.

(a) *Definitions.* For the purposes of this section, the following terms shall have the meanings set forth in this section:

(1) "Accredited" means approval by a recognized accrediting board or association on a regional, State, or national level, such as a State board of education or health; the American Hospital Association; a regional or national accrediting association for universities, colleges, or secondary schools; or another recognized accrediting association.

(2) "Approved" means recognition and approval by the State department of education, State department of health, or other appropriate authority where no recognized accrediting board, association, or other authority exists for the purpose of making an acreditation. For an educational institution or an educational program, approval must relate to academic or instructional standards established by the appropriate authority. An educational institution or program may be considered approved if its instruction and credits therefor are accepted by an accredited or State-approved institution, or if it meets the academic or instructional standards prescribed for public schools in the State; i.e., the organizational entity or program is devoted primarily to approved academic, vocational (including technical or occupational), or professional study and instruction, which operates primarily for educational purposes on a full-time basis for a minimum school year as prescribed by the State and employs a full-time staff of qualified instructors. For a public health institution or program, approval must relate to the medical requirements and standards for the professional and technical services of the institution established by the appropriate authority. A health institution or program may be considered as approved when a State body having authority under law to establish standards and requirements for public health institutions renders approval thereto whether by accreditation procedures or by licensing or such other method prescribed by State law. In the absence of an official State approving authority for a public health institution or program or educational

institution or program, the awarding of research grants to the institution or organization by a recognized authority such as the National Institutes of Health, the National Institute of Education, or by similar national advisory council or organization may constitute approval of the institution or program provided all other criteria are met.

(3) "Child care center" means a public or nonprofit facility where educational, social, health, and nutritional services are provided to children through age 14 or as prescribed by State law, and which is approved or licensed by the State or other appropriate authority as a child day care center or child care center.

(4) "Clinic" means an approved public or nonprofit facility organized and operated for the primary purpose of providing outpatient public health services and includes customary related services such as laboratories and treatment rooms.

(5) "College" means an approved or accredited public or nonprofit institution of higher learning offering organized study courses and credits leading to a baccalaureate of higher degree.

(6) "Conservation" means a program or programs carried out or promoted by a public agency for public purposes involving directly or indirectly the protection, maintenance, development, and restoration of the natural resources of a given political area. These resources include but are not limited to the air; land; forests; water; rivers; streams; lakes and ponds; minerals; and animals, fish and other wildlife.

(7) "Economic development" means a program or programs carried out or promoted by a public agency for public purposes which involve directly or indirectly efforts to improve the opportunities of a given political area for the successful establishment or expansion of industrial, commercial, or agricultural plants or facilities and which otherwise assist in the creation of long-term employment opportunities in the area or primarily benefit the unemployed or those with low incomes.

(8) "Education" means a program or programs to develop and promote the training, general knowledge, or academic, technical, and vocational skills and cultural attainments of individuals in a community or other given political area. These programs may be conducted by schools, including preschool activities and child care centers, colleges, universities, schools for the mentally retarded or physically handicapped, educational radio and television stations, libraries, or museums. Public educational programs may include public school systems and supporting facilities such as centralized administrative or service facilities.

(9) "Educational institution" means an approved, accredited, or licensed public or nonprofit institution, facility, entity, or organization conducting educational programs, including research for any such programs, such as a child care center, school, college, university, school for the mentally retarded, school for the physically handicapped, or an educational radio or television station.

(10) "Educational radio station" means a radio station licensed by the Federal Communications Commission and operated exclusively for noncommercial educational purposes and which is public or nonprofit and tax exempt under section 501 of the Internal Revenue Code of 1954.

(11) "Educational television station" means a television station licensed by the Federal Communications Commission and operated exclusively for noncommercial educational purposes and which is public or nonprofit and tax exempt under section 501 of the Internal Revenue Code of 1954.

(12) "Health center" means an approved public or nonprofit facility utilized by a health unit for the provision of public health services, including related facilities such as diagnostic and laboratory facilities and clinics.

(13) "Hospital" means an approved or accredited public or nonprofit institution providing public health services primarily for inpatient medical or surgical care of the sick and injured and includes related facilities such as laboratories, outpatient departments, training facilities, and staff offices.

(14) "Library" means a public or nonprofit facility providing library services free to all residents of a community, district, State, or region.

(14.1) "Licensed" means recognition and approval by the appropriate State or local authority approving institutions or programs in specialized areas. Licensing generally relates to established minimum public standards of safety, sanitation, staffing, and equipment as they relate to the construction, maintenance, and operation of a health or educational facility, rather than to the academic, instructional, or medical standards for these institutions. Licensing may be required for educational or public health programs such as occupational training, physical or mental health rehabilitation services, or nursing care. Licenses frequently must be renewed at periodic intervals.

(15) "Medical institution" means an approved, accredited, or licensed public or nonprofit institution, facility, entity, or organization the primary function of which is the furnishing of public health and medical services to the public at large or promoting public health through the conduct of research for any such purposes, experiments, training, or demonstrations related to cause, prevention, and methods of diagnosis and treatment of diseases and injuries. The term includes but is not limited to hospitals, clinics, alcohol and drug abuse treatment centers, public health or treatment centers, research and health centers, geriatric centers, laboratories, medical schools, dental schools, nursing schools, and similar institutions. The term does not include institutions primarily engaged in domiciliary care although a separate medical facility within such a domiciliary institution may qualify as a "medical institution."

(16) "Museum" means a public or private nonprofit institution which is organized on a permanent basis essentially for educational or esthetic purposes and which, using a professional staff, owns or uses tangible objects, whether animate or inanimate; cares for these objects; and exhibits them to the public on a regular basis either free or at a nominal charge. As used in this section, the term "museum" includes, but is not limited to, the following institutions if they satisfy all other provisions of this section: Aquariums and zoological parks; botanical gardens and arboretums; museums relating to art, history, natural history, science, and technology; and planetariums. For the purposes of this section, an institution uses a professional staff if it employs full time at least one qualified staff member who devotes his or her time primarily to the acquisition, care, or public exhibition of objects owned or used by the institution. This definition of museum does not include any institution which exhibits objects to the public if the display or use of the objects is only incidential to the primary function of the institution. For example, an institution which is engaged primarily in the sale of antiques, objets d'art, or other artifacts and which incidentally provides displays to the public of animate or inanimate objects, either free or at a nominal charge, does not qualify as a museum.

(17) "Nonprofit tax-exempt activity" means an institution or organization, no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual, and which has been held to be tax-exempt under the provisions of section 501 of the Internal Revenue Code of 1954.

(18) "Park and recreation" means a program or programs carried out or promoted by a public agency for public purposes which involve directly or indirectly the acquisition, development, improvement, maintenance, and protection of park and recreational facilities for the residents of a given political area. These facilities include but are not limited to parks, playgrounds and athletic fields, swimming pools, golf courses, nature facilities, and nature trails.

(19) "Public health" means a program or programs to promote, maintain, and conserve the public's health by providing health services to individuals and/or by conducting research, investigations, examinations, training, and demonstrations. Public health services may include but are not limited to the control of communicable diseases, immunization, maternal and child health programs, sanitary engineering, sewage treatment and disposal, sanitation inspection and supervision, water purification and distribu-

tion, air pollution control, garbage and trash disposal, and the control and elimination of disease-carrying animals and insects.

(20) "Public health institution" means an approved, accredited, or licensed public or nonprofit institution, facility, entity, or organization conducting a public health program or programs such as a hospital, clinic, health center, or medical institution, including research for any such program, the services of which are available to the public at large.

(21) "Public safety" means a program or programs carried out or promoted by a public agency for public purposes involving, directly or indirectly, the protection, safety, law enforcement activities, and criminal justice system of a given political area. Public safety programs may include but are not limited to those carried out by public police departments, sheriffs' offices, the courts, penal and correctional institutions and including juvenile facilities, State and civil defense organizations, and fire departments and rescue squads including volunteer fire departments and rescue squads supported in whole or in part with public funds.

(22) "Public purpose" means a program or programs carried out by a public agency which are legally authorized in accordance with the laws of the State or political subdivision thereof and for which public funds may be expended. Public purposes include but are not limited to programs such as conservation, economic development, education, parks and recreation, public health, and public safety.

(23) "School" (except schools for the mentally retarded and schools for the physically handicapped) means a public or nonprofit approved or accredited organizational entity devoted primarily to approved academic, vocational, or professional study and instruction, which operates primarily for educational purposes on a full-time basis for a minimum school year and employs a full-time staff of qualified instructors.

(24) "School for the mentally retarded" means a facility or institution operated primarily to provide specialized instruction to students of limited mental capacity. It must be public on nonprofit and must operate on a full-time basis for the equivalent of a minimum school year prescribed for public school instruction of the mentally retarded, have a staff of qualified instructors, and demonstrate that the facility meets the health and safety standards of the State or local governmental body.

(25) "School for the physically handicapped" means a school organized primarily to provide specialized instruction to students whose physical handicaps necessitate individual or group instruction. The schools must be public or nonprofit and operate on a full-time basis for the equivalent of a minimum school year prescribed for public school instruction for the physically handicapped, have a staff of qualified instructors, and demonstrate that the facility meets the health and safety standards of the State or local governmental body.

(26) "University" means a public or nonprofit approved or accredited institution for instruction and study in the higher branches of learning and empowered to confer degrees in special departments or colleges.

(27) "Programs for older individuals" means any State or local government agency or any nonprofit tax-exempt activity which receives funds appropriated for programs for older individuals under the Older Americans Act of 1965, as amended, under Title IV or Title XX of the Social Security Act, or under the Economic Opportunity Act of 1964.

(b) *Eligibility of public agencies*—(1) *Public agency.* Surplus personal property may be donated through the State agency to any public agency in the State. A public agency, as defined in § 101-44.001-10, includes any:

(i) State or department, agency, or instrumentality thereof;

(ii) Political subdivision of the State, including any unit of local government or economic development district, or any department, agency, or instrumentality thereof;

(iii) Instrumentality created by compact or other agreement between States or political subdivisions;

(iv) Multijurisdictional sub-State districts established by or pursuant to State law; and

(v) Indian tribe, band, pueblo, or community located on a State reservation.

(2) *Public purpose.* Surplus personal property acquired through the State agency must be used by the public agency to carry out or to promote for the residents of a given political area one or more public purposes. While the act lists certain specific public purposes such as conservation, economic development, education, parks and recreation, public health, and public safety, this enumeration is not exclusive and is not intended to preclude the acquisition of donable surplus personal property by a public agency for other public purposes. In effecting fair and equitable distribution of property, based on the relative needs and resources of interested public agencies and other authorized donees and their ability to use the property, it is intended that the State agency give full and fair consideration to the requirements of public agencies for property necessary and usable for conservation, economic development, education, parks and recreation, public health and public safety, and other public purposes. Each public program is conducted by designated departments, agencies, or other instrumentalities of the State and/or local governments in carrying out either specific or diverse functions, with, in some cases, overlapping jurisdiction. Activities and functions involved in designated public programs may include but are not limited to the following:

(i) *Conservation.* State and local agencies and districts may be involved mutually in carrying out programs to conserve natural resources. Indian tribes or communities located on a State reservation may also be involved in conservation projects as well as other public programs such as economic development.

(ii) *Economic development.* Programs designed to develop the economy by establishing or expanding industry, commerce, or agriculture in a given geographic area and may include the economic development districts and other activities of public agencies involved in activities such as municipal water and sewage departments operating sewage systems and waste treatment plants; State or local street or highway departments involved in construction or improvement of roads; port authorities and public airport commissions involved in harbor and public airport development; public transit authorities providing public transportation; environmental and antipollution programs of municipal, county, or State agencies; and State and local agencies involved in tourism development.

(iii) *Education.* Public schools, colleges, and universities are directly involved in the educational process. Special schools for the physically handicapped or the mentally retarded, as well as vocational and trade schools and educational radio and television stations, are among the educational institutions which directly contribute to the educational development of a district, town, city, county, or other governmental jurisdiction. Child care centers not only provide education benefits but also may promote economic development and public safety. Central administrative and service facilities of public school systems are equally necessary to successfully carry out and improve public education. Public libraries and museums also provide an essential educational and cultural service to a community.

(iv) *Park and recreation.* Agencies of the State, counties, cities, and other instrumentalities of local government are directly involved in the acquisition, development, improvement, and maintenance of public parks and other recreational facilities which benefit the general public. Public parks, playgrounds, swimming pools, and golf courses are some of the many public facilities which not only provide recreational benefits but also promote economic development, conservation, and public health.

(v) *Public health.* Public health services are directly provided by hospitals, clinics, health centers, and other designated medical institutions. Public agencies also provide broad public health benefits with regard to activities such as the control of communicable diseases, immunization, public health nursing, maternal and child health programs, classes in health education and nutrition, and other health programs. These activities may be carried on in a clinic or subsidiary center in a community, in a person's home, in a school, or in a private business office of plant. Other vital programs carried on by State, county, or local health departments or other designated agencies directly protect public health and safety as well as promote economic development. These programs may include inspection of meat, food, and water; control and elimination of disease-carrying animals or insects by fogging, spraying, or other methods; water purification and water distribution systems; sewage treatment and disposal systems; garbage and trash disposal; and sanitary landfill facilities. These types of public health functions or services contribute directly to the general health and well being of the geographical area served, and public agencies may acquire surplus property to support these programs.

(vi) *Public safety.* Public safety includes not only law enforcement agencies but agencies involved in the prevention, control, and treatment of alcohol and drug abuse; agencies which provide services to children such as child care centers and activities serving neglected, dependent, abused, and delinquent children; and agencies and courts within the criminal justice system. Equally essential to public safety are State and local civil defense agencies and local fire departments and rescue squads. The availability of fire and rescue equipment at public airports is another illustration of an equally vital public safety requirement.

(vii) *Programs for older individuals.* State or local government agencies which receive funds apropriated for older individuals under the Older Americans Act of 1965, as amended, under Title IV or Title XX of the Social Security Act, or under the Economic Opportunity Act of 1965, are eligible to receive surplus property through donation. Programs for older individuals include services that are necessary for the general welfare of older individuals, such as social services, transportation services, nutrition services, legal services, and multipurpose senior centers.

(c) *Eligibility of nonprofit tax-exempt activities.* Surplus personal property may be donated through the State agency to nonprofit tax-exempt activities, as defined in this section, within the State, such as:

(1) Medical institutions;

(2) Hospitals;

(3) Clinics;

(4) Health centers;

(5) Schools;

(6) Colleges;

(7) Universities;

(8) Schools for the mentally retarded;

(9) Schools for the physically handicapped;

(10) Child care centers;

(11) Radio and television stations licensed by the Federal Communications Commission as educational radio or educational television stations;

(12) Museums attended by the public;

(13) Libraries, serving free all residents of a community, district, State, or region; or

(14) Organizations or institutions which receive funds appropriated for programs for older individuals under the Older Americans Act of 1965, as amended, under Title IV or Title XX of the Social Security Act, or under the Economic Opportunity Act of 1964. Programs for older individuals include services that are necessary for the general welfare of older individuals, such as social services, transportation services, nutrition services, and multipurpose senior centers.

(d) *Educational and public health purposes.* Surplus personal property acquired through the State agency must be used by a nonprofit educational or public health institution or organization for purposes of education or public health as defined in this section, including research for any such purpose. While this does not preclude the use of donated property by an eligible nonprofit educational or public health institution or organization for a related or subsidiary purpose incident to the institution's overall program, the property must be used essentially for the primary educational or public health function for which the activity receives donable property and not for a nonrelated or commercial purpose. The enumeration of institutions and organizations in § 101-44.207(c) is descriptive and not exclusive and is not intended to preclude determinations by the State agency of eligibility for other nonprofit educational and public activities. These activities may include but are not limited to:

(1) Geriatric centers which are public health institutions and which furnish public health and medical services to the aged;

(2) Nursing homes which are public health institutions providing skilled nursing care and related medical services to individuals admitted because of illness, disease, or physical or mental infirmity. (A nursing home may be considered as a qualified public health institution if it is either a:

(i) Nursing home operated in connection with a hospital;

(ii) Facility for long-term care of convalescents, chronic disease patients, or other persons who require skilled nursing care and related medical services in which the nursing care and medical services are prescribed by or are performed under the general direction of persons licensed to practice medicine or surgery in the State; or

(iii) Nursing home certified to provide health services to medicaid or medicare patients under the provisions of the Social Security Act. (Nursing homes which do not meet these requirements or the primary purpose of which is domiciliary care will not be considered as qualifying as public health institutions); and

(3) Alcohol and drug abuse treatment centers which are clinics or medical institutions and which provide for the diagnosis, treatment, and rehabilitation of alcoholics and drug addicts. These centers should have available professional medical staffs on a regular visiting basis.

(e) *Determinations of eligibility.* The State agency is responsible for determining that an applicant is eligible as a public agency or a nonprofit educational or public health institution or organization to participate in the program and receive donations of surplus personal property.

(f) *Application for eligibility.* Each State agency shall maintain a complete and current record for each eligible donee. This record shall include the following:

(1) *Application.* The application shall set forth the:

(i) Legal name and the address of the applicant;

(ii) Status of the applicant as a public agency or as an eligible nonprofit tax-exempt activity (Evidence shall be included in the file that the applicant is a public agency or has been determined to be nonprofit and tax-exempt under section 501 of the Internal Revenue Code of 1964.);

(iii) Details concerning the applicant's public program activities or, whenit is an eligible nonprofit tax-exempt activity, the specific programs and facilities operated by the applicant (Sufficient details and specifics should be available so that the State agency can determine the program eligibility qualifications of the applicant, including any of those activities defined in § 101-44.207(a).); and

(iv) Evidence that the applicant is approved, accredited, or licensed, when it is a requirement of one or more of the applicant's programs.

(2) *Authorization.* A written authorization signed by the chief administrative officer or executive head of the donee activity, or a resolution by the governing board or body of the donee activity, which shall designate one or more representatives to act for the applicant acquiring donable property from the State agency, to obligate any necessary funds of the applicant for this purpose, and to execute the State agency distribution document including terms, conditions, reservations, and restrictions that the State agency or GSA may establish on the use and disposal of the property.

(3) *Assurance.* Necessary assurances in the format prescribed by GSA must be provided that the applicant will comply with GSA regulations on nondiscrimination as set forth in Subpart 101-6.2.

(g) *Needs and resources.* In order that the State agency in distributing property can give fair and equitable consideration to the relative needs and resources of the donees within the State and their ability to use the property, the State agency may require each applicant, when submitting an application for eligibility determination, to provide a statement on the types and kinds of equipment, vehicles, machines, or other items of property needed by the applicant for use in the applicant's particular public programs, or, in the case of eligible nonprofit tax-exempt activities, the authorized programs to be served by the use of the equipment and the scope of these programs. The State agency may also request any financial information needed to evaluate the relative financial needs and resources of the applicant.

(h) *Maintaining eligibility.* The State agency shall update a donee's eligibility record on a periodic basis, but not less than once every 3 years, to ensure continuing eligibility. When an eligible donee ceases to operate or when it loses its license, accreditation, or approval or otherwise fails to maintain its eligibility status, the State agency shall terminate its distribution of property to the activity.

(i) *Conditional eligibility.* In certain cases newly organized activities may not have commenced operations or completed construction of their facilities, or may not yet have been approved, accredited, or licensed as may be required to qualify as eligible donees. In other cases there may be no specific authority which can approve, accredit, or license the applicant as required for qualification. In these cases the State agency may accept letters from public authorities, either local or State, which the State agency deems competent (such as a board of health or a board of education) stating that the applicant otherwise meets the standards prescribed for approved, accredited, or licensed institutions and organizations. In the case of educational activities, letters from accredited or approved institutions that students from the applicant institution have been and are being accepted may be deemed sufficient by the State agency. In the case of public health institutions or organizations, licensing with respect to public health applicants may be accepted by the State agency as evidence of approval in States where there is no authority which can, as a legal or as a policy matter, approve hospitals, clinics, health centers, or medical institutions, provided the licensing authority prescribes the medical requirements and standards for the professional and technical services of the institution. If the construction of an applicant's facility or physical plant has not been completed, the State agency, after evaluating the progress and potential of the applicant, may at its discretion make available surplus items of property which can be immediately utilized at this point in the applicant's program.

[42 FR 56003, Oct. 20, 1977, as amended at 43 FR 38009, Aug. 25, 1978; 45 FR 56809, Aug. 26, 1980]

§ 101-44.208 Property distributed to donees.

(a) *Distribution document.* Donation of surplus personal property shall be accomplished by the use of a State agency distribution document which shall include the:

(1) Certifications and agreements required of the donee by the State agency;

(2) Condition that the donee will return to the State agency, at its own expense, any donated property that is not placed in use for the purposes for which it was donated within 1 year of donation, or which ceases to be used by the donee for those purposes within 1 year of being placed in use, provided the property is still usable as determined by the State agency or the donee agrees to make the property available for retransfer or other disposal by the State agency;

(3) Terms, conditions, reservations, and restrictions imposed by the State agency as provided in the State plan of operation on the use of any item of property having a unit acquisition cost of $3,000 or more and any passenger motor vehicle;

(4) Terms, conditions, reservations, or restrictions imposed on any other donated item by the State agency;

(5) Conditions imposed by GSA, if any, requiring special handling or use limitations on donated property; and

(6) Period of restriction during which the donee must use the property for the purpose for which it was acquired.

(b) *Donation purpose.* At the time donable surplus property is acquired by a donee, the donee's authorized representative shall indicate on the State agency's distribution document the primary purpose for which the property is to be used. In the case of public agencies, such usage could be for public purposes, such as conservation, economic development, education, parks and recreation, public health, public safety, museums, State Indians, or programs for older individuals. When the property is to be used for a combination of these purposes or for some other public purpose, the distribution document shall so indicate. With respect to nonprofit institutions or organizations, the purpose shall be shown as education, public health, museums , or programs for older individuals.

(c) *Title.* Title to surplus personal property shall pass to an eligible donee when the donee has executed the State agency distribution document and taken possession of the property.

(d) *Utilization surveys.* The State agency shall make utilization surveys and reviews, as provided in the State plan of operation, to ensure that donated property during the period of restriction is being used by the donee for the purposes for which it was acquired.

(e) *Compliance.* The State agency shall take the necessary action to correct any noncompliance involving the use of donated property or to enforce the terms, conditions, reservations, and restrictions imposed on the use of the property, either by the State agency or GSA. Noncompliance may involve but not be limited to:

(1) Property not placed in use by the donee;

(2) Property no longer needed by the donee within the period of restriction;

(3) Unauthorized use of property by the donee during the period of restriction; or

(4) Unauthorized disposal of property by the donee during the period of restriction.

(f) *Enforcement of compliance.* Enforcement of compliance during the period of restriction may involve action by the State agency to:

(1) Place the property in proper use by the donee;

(2) Transfer the property to another donee having need and use therefor;

(3) Return the property to the State agency for distribution to other donees in the State or to another State agency having need and use therefor;

(4) Transfer the property through GSA to a Federal agency;

(5) Sell the property;

(6) Recover the fair value of the property if it has been disposed of improperly during the period of restriction; and

(7) Recover the fair rental value if the property was used in an unauthorized manner during the period of restriction.

(g) *Coordination with GSA.* In enforcing compliance with the terms and conditions imposed on donated property, the State agency shall coordinate with GSA before undertaking the sale of, or making demand for payment of the fair value or fair rental value of donated property which (1) is subject to any special handling condition or use limitation imposed by GSA or (2) has not been placed into use by the donee, for the purposes for which acquired, within 1 year of donation, or which has not been used for these purposes for 1 year after being place in use.

(h) *Waivers.* A State agency may amend, modify, or grant releases for appropriate reasons from the terms, conditions, reservations, or restrictions it has imposed on the use of donated property, provided that it has set forth in the State plan of operation the standards by which actions shall be taken by the State agency. Amendments, corrections, or releases shall not be granted by the State agency, however, with respect to:

(1) The requirement that usable property be returned by the donee to the State agency if the property has not been placed in use for the pur-

poses for which it was donated within 1 year of donation or ceases to be used by the donee for those purposes within 1 year of being placed in use; except that the State agency may grant authority to the donee to cannibalize or accomplish secondary utilization of property items subject to this requirement when the State agency determines that such action will result in increased utilization of the property and that the proposed action meets the standards prescribed in the State plan of operation with respect to amendments, modifications, or releases of the terms and conditions imposed on donated property; or

(2) Any special handling condition or use limitation imposed by GSA except with the prior approval of GSA.

(i) *Disposition of recovered property.* Personal property items returned to a State agency by a donee shall be redistributed by the State agency to other donees in the State or otherwise transferred or disposed of in accordance with the provisions of the State plan of operation if the property was returned (1) while subject to any special handling condition or use limitation imposed by GSA or (2) because the property had not been placed in use within 1 year of donation for the purposes for which it was acquired, or not used for such purposes for 1 year after being placed in use. Personal property items returned by a donee while subject to terms, conditions, reservations, or restrictions imposed by the State agency may be redistributed, transferred, or disposed of as determined by the State agency.

(j) *Deposit of funds.* Any funds, including the gross proceeds of sale or the fair value or the fair rental value of the property, derived by the State agency from enforcement of compliance involving a breach of any special handling condition or use limitation imposed on donated property by GSA, or involving donated property which had not been placed in use for the purposes for which it was acquired within 1 year of donation or not used for those purposes for 1 year after being placed in used by the donee, shall be remitted promptly by the State agency to GSA for deposit in the Treasury of the United States. The remittance shall be accompanied by supporting documentation indicating the source of the funds and essential background information. Funds derived by the State agency from any compliance action involving any term, condition, reservation, or restriction imposed on the donee by the State agency and funds derived by the State agency from any amendment, modification, or release thereof during the period of restriction may be retained and used by the State agency as provided in its plan of operation.

(k) *Reimbursement to donees.* (1) When a donee no longer has a need or use for donated property which is subject to any special handling condition or use limitation imposed by GSA, and no breach of the conditions or limitations has occurred, the donee may be reimbursed on a prorated basis for the following expenses when the property is tranferred to a Federal agency or sold for the benefit and account of the United States of America:

(i) Service charge paid to the State agency;

(ii) Transportation charges paid by the donee in initially acquiring the property; and

(iii) Initial costs of repairs required to make the item usable.

(2) The State agency shall recommend for GSA approval the amount of reimbursement to which the donee is entitled, taking into consideration the benefit the donee has received from the use of the property and making appropriate deductions therefor. In the case of sale, reimbursement to a donee for any item of property shall not exceed the proceeds of the sale of the item. Reimbursement for property to be transferred to a Federal agency will be made a condition of the transfer by GSA.

[42 FR 56003, Oct. 20, 1977, as amended at 45 FR 56810, Aug. 26, 1980]

Subpart 101-44.3—Donations of Foreign Excess Personal Property

§ 101-44.300 Scope of subpart.

This subpart prescribes the policies and methods governing the return of foreign excess personal property to the United States for donation.

§ 101-44.301 Holding agency responsibilities.

Prior to any sale, exchange, lease, or donation of medical materials or supplies pursuant to the provisions of sections 402 (a) or (b) of the Federal Property and Administrative Services Act of 1949, as amended, foreign excess personal property not required for further Federal use as determined by GSA shall be made available by the holding agency for selection and return to the United States for donation for the purposes of Subpart 101-44.2 and, with respect to property returned from Department of Defense (DOD) activities, for the purposes of Subpart 101-44.4. Any foreign excess personal property returned to the United States which has been identified as having been processed, produced, or donated by the American National Red Cross shall be made available for donation to the American National Red Cross for charitable purposes in accordance with Subpart 101-44.6, unless otherwise directed by the Administrator of General Services.

§ 101-44.302 Donation screening.

(a) To locate and select donable property, onsite representatives of State agencies duly accredited by GSA shall be permitted to screen foreign excess personal property available for return to the United States. Property not required for further Federal use, as determined by GSA, shall be available for donation for a period of time of not less than 10 calendar days unless otherwise agreed to by the holding agency and GSA. To assist donation screening. GSA will provide State agency representatives with available advance information concerning foreign excess property to the maximum extent possible.

(b) Property returned to the United States for further Federal use and thereafter determined surplus shall be made available for donation by GSA for the purposes set forth in Subpart 101-44.2 and, with respect to property returned from DOD activities and then determined surplus, for donation by GSA without priority for the purposes of Subpart 101-44.4.

§ 101-44.303 Donation approval.

(a) The Administrator of General Services is authorized to make donations at his discretion for the purposes of this subpart.

(b) Standard Form (SF) 123, Transfer Order Surplus Personal Property (see § 101-44.4901-123), prepared in accordance with instructions (see § 101-44.4901-123-1) and signed by a duly authorized official, shall be forwarded to the appropriate GSA office for approval for property covered by this subpart. An infomation copy shall be forwarded to the holding activity.

(c) Unless otherwise authorized by GSA, personal property shall not be released by the holding agency for donation pursuant to this subpart until it has received SF 123 bearing the signed approval of the appropriate GSA office.

§ 101-44.304 Shipment.

The State agency representatives shall arrange for the shipment of personal property approved for donation and allocated by GSA to State agencies for distribution to eligible donees. Upon request, the holding agency may provide packing, handling, crating, and transportation services on a reimbursable basis.

§ 101-44.305 Costs incurred incident to donation.

All transportation costs and other direct costs incurred incident to donation, including packing, handling, and crating, shall be borne by the State agency or the donee institution or organization receiving the property, including any costs incurred and billed by GSA or the holding agency. Care shall be exercised by the State agencies in the selection of property to ensure that it is economical to return the items to the United States for donation, giving full consideration to transportation and accessorial costs.

§ 101-44.306 Statistics and reports.

The Administrator of General Services will maintain data on the acquisition cost of all personal property approved by GSA for donation pursuant to this subpart and will report these data to the Congress annually and at such other times as he may deem desirable.

Subpart 101-44.4—Donations to Service Educational Activities

§ 101-44.400 General.

Section 203(j)(2) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484), provides that in the case of surplus personal property under the control of the Department of Defense, the Secretary of Defense shall determine whether the property is usable and necessary for educational activities which are of special interest to the armed services, such as maritime academies or military, naval, Air Force, or Coast Guard preparatory schools. When the Secretary determines that the property is usable and necessary for such purposes, the Secretary shall alocate it for transfer by the Administrator of General Services to the appropriate State agency for distribution through donation to service educational activities. When the Secretary determines that the property is not usable and necessary for such purposes, the property may be donated in accordance with the provisions of Subpart 101-44.2.

§ 101-44.401 Agency authority.

(a) *Department of Defense (DOD).* The Secretary of Defense or his duly authorized representative shall:

(1) Determine the types and kinds of surplus personal property under the control of DOD needed and usable for designated service educational activities;

(2) Establish eligibility requirements for service educational activities and make determinations of eligibility;

(3) Establish the conditions, including disposal requirements, for participation in the donation program by written agreement with each designated service educational activity;

(4) Allocate surplus personal property under the control of DOD on the basis of need and utilization for transfer by GSA to service educational activities; and

(5) Provide surveillance to determine and enforce compliance with the conditions set forth in the service educational activities' donation agreements and take appropriate enforcement action in the event of a breach of the conditions of donation or failure to comply with the conditions.

(b) *General Services Administration.* Donations of surplus personal property to service educational activities require the prior approval of GSA. Donations may be approved by the Administrator of General Services at his discretion.

§ 101-44.402 Application.

A service educational activity shall make application to GSA for surplus personal property under the control of DOD using Standard Form 123, Transfer Order Surplus Personal Property. An SF 123 shall be prepared and processed in accordance with § 101-44.4901-123-1, and in the case of aircraft in accordance with the provisions of § 101-44.108-2. The GSA regional office will send a copy of the approved SF 123 to the State agency for the State in which the property is to be used by the applicant service educational activity. Upon receipt of the approved SF 123 and release of the property to the service educational activity, the property disposal officer for the military installation where the property was located shall send an information copy of the shipment or delivery document to the State agency evidencing the transfer of the property to the service educational activity.

§ 101-44.403 Disposal.

When donated property is no longer needed for use by the service educational activity, or ceases to be used, the service educational activity, except for flyable aircraft, weapons, ammunition, and explosives, shall report the property in writing to the State agency for the State in which the property is located for possible transfer. When the State agency does not require the property, it shall inform the service educational activity in writing. The service educational activity shall then request disposition advice, in writing, from the nearest Defense Property Disposal Office (DPDO). The DPDO may accept the property for disposal or advise the service educational activity to otherwise dispose of the property in accordance with the provisions of the service educational activity's donation agreement, except that flyable aircraft, weapons, ammunition, and explosives shall be returned by the service educational activity, at its expense, to the nearest Department of Defense disposal activity for appropriate action, including possible donation, and the military facility shall accept the property.

§ 101-44.404 Surveillance.

DOD shall provide GSA with copies of internal instructions, and changes thereto, which outline the scope of its surveillance program for the enforcement of compliance with the terms and conditions of transfer established by DOD for surplus personal property donated to service educational activities.

§ 101-44.405 Reports.

In order for GSA to accumulate information as a basis for the exercise of its discretionary authority to approve the donation of surplus personal property, DOD shall make such reports on compliance actions involving donations to service educational activities as may be required from time to time by the Administrator of General Services.

Subpart 101-44.5—Donations to Public Airports

§ 101-44.500 General.

Section 13(g) of the Surplus Property Act of 1944, as amended (50 U.S.C. App. 1622(g)), provides for the disposal of surplus personal property, with the approval of the Administrator of General Services, as determined by the Administrator of the Federal Aviation Administration to be essential, suitable, or desirable for the development, improvement, operation, or maintenance of a public airport.

§ 101-44.501 Agency authority.

(a) *Federal Aviation Administration.* The Administrator of the Federal Aviation Administration or his duly authorized representative shall:

(1) Determine requirements for surplus personal property of any State, political subdivision, municipality, or tax-supported institution for public airport use;

(2) Prescribe the eligibility requirements for public airport applicants and make determinations of eligibility;

(3) Determine whether available surplus personal property is essential, suitable, or desirable to fulfill the immediate or foreseeable future requirements for the development, improvement, operation, or maintenance of a public airport; and

(4) Determine and enforce compliance with the terms and conditions under which surplus personal property is transferred for public airport use.

(b) *General Services Administration.* Donations of surplus personal property for public airport purposes may be approved by the Administrator of General Services, at his discretion. Subject to that prior approval, surplus personal property determined essential, suitable, or desirable for public airport use by the Federal Aviation Administration (FAA) may be transferred direct to the specific public airport applicant.

§ 101-44.502 Application.

An applicant for surplus property to be used for public airport purposes shall make application to GSA using Standard Form 123, Transfer Order Surplus Personal Property, in accordance with § 101-44.110 for donation approvl of surplus property determined by the Administrator of the Federal Aviation Administration or his duly authorized representative to be essential, suitable, or desirable for the development, improvement, operation, or maintenance of a public airport, or reasonably necessary to fulfill the immediate and foreseeable future requirements of the applicant for the development, improvement, operation, or maintenance of a public airport. Applications shall be prepared in accordance with § 101-44.111 and shall not require shipment of unreasonably small quantities.

§ 101-44.503 Surveillance.

FAA shall provide GSA with copies of internal instructions, and changes thereto, which outline the scope of its surveillance program for the enforcement of compliance with the terms and conditions of transfer established by GSA for surplus personal property donated to public airports.

§ 101-44.504 Reports.

In order for GSA to accumulate information as a basis for the exercise of its discretionary authority to approve the donation of surplus personal property, FAA shall make such reports on compliance actions involving donations to public airports as may be required from time to time by the Administrator of General Services.

Subpart 101-44.6—Donations to the American National Red Cross

§ 101-44.600 General.

Pursuant to section 203(1) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484), as amended, personal property which has been determined to be surplus property and which has been identified as having been processed, produced, or donated by the American National Red Cross shall, unless otherwise directed by the Administrator of General Services, be made available for donation to the Red Cross for charitable purposes.

§ 101-44.601 Donation approval.

The donation of surplus property for which the Red Cross is the eligible donee shall not require further GSA approval, unless the property has an estimated value in excess of $500 or, in the case of blood plasma, consists of a quantity in excess of 1,000 units. In those instances in which the property to be donated exceeds the amounts stated, the GSA Regional Administrator for the area in which the property is located may approve the formal request submitted by the Red Cross.

§ 101-44.602 Cooperation of holding agencies.

Holding agencies shall cooperate with the Red Cross by informing the National Headquarters, Attention: General Supply Office, 17th and D Streets NW., Washington, D.C. 20006, of any surplus property in their custody which meets the criteria in § 101-44.600. By memorandum, letter, or other means of communication, the holding agencies shall provide information regarding suggested shipping facilities, quantity, description, condition, and location of such property in their inventories.

§ 101-44.603 Action by the Red Cross.

(a) Upon receipt of information from the holding agency regarding the availability of surplus personal property covered by this subpart, the Red Cross may inspect the property or request it pursuant to § 101-44.600 without inspection.

(b) The formal request and shipping instructions in duplicate shall be prepared and transmitted by the Red Cross to the holding agency activity having custody of the property within 20 calendar days from the date of notification of information provided for in § 101-44.602. Shipping instructions shall include a list of all such surplus property to be transferred and shall include reference to the date when information on which the request is based was received by the Red Cross. One copy of the request and shipping instructions shall be forwarded to the GSA regional office for the area in which the property is located.

(c) When the property to be donated exceeds the quantities stated in § 101-44.601, the Red Cross shall send three copies of the formal request and shipping instructions to the designated GSA regional office for approval. Upon approval, the GSA regional office will mail two approved copies direct to the responsible activity of the holding agency.

§ 101-44.604 Transfer by holding agency.

The holding agency shall transfer direct to the Red Cross, upon receipt of the request and shipping instructions provided for in § 101-44.603, all items of surplus property requested. One copy of the request and shipping instructions shall be enclosed with the shipment or attached to shipping documents. The shipments shall be made f.o.b. installation, transportation charges collect.

§ 101-44.605 Donable property determined unusable by the Red Cross.

Property eligible for donation to the Red Cross which because of deterioration or for other reasons the Red Cross declines in writing to request as a donation, or as to which no action is taken by the Red Cross within the 20 calendar day period prescribed in § 101-44.603, shall be disposed of as other surplus. When the Red Cross property is offered for disposal, the disposal document shall provide for a certification to the effect that all Red Cross labels or other Red Cross identifications will be obliterated or removed from the property before use by the recipient or transfer by him to other users.

Subpart 101-44.7—Donations of Property to Public Bodies

§ 101-44.700 Scope of subpart.

This subpart prescribes the policies and methods governing the disposition by executive agencies by donation to public bodies of personal property which has no commercial value or of which the estimated cost of continued care and handling would exceed the estimated proceeds from its sale. This subpart does not apply to:

(a) Surplus personal property donated for the purposes of Subparts 101-44.2, 101-44.4, and 101-44.5; or

(b) Controlled substances (as defined in § 101-43.001-4) and combat material (as defined in § 101-43.001-2).

§ 101-44.701 Findings justifying donation to public bodies.

§ 101-44.701-1 General.

(a) Property shall not be donated to public bodies by an executive agency unless it is affirmatively found in writing by a duly authorized official of the agency either that:

(1) The property has no commercial value, or

(2) The estimated cost of its continued care and handling would exceed the estimated proceeds from its sale.

(b) Findings shall not be made by any official directly accountable for the property covered thereby.

§ 101-44.701-2 Reviewing authority.

When a line item of the property to be disposed of under this Subpart 101-44.7 by an executive agency at any one location at any one time had an original cost (estimated if not known) of more than $1,000, findings made under § 101-44.701-1 shall be approved by a reviewing authority before any disposal.

§ 101-44.702 Donations to public bodies.

§ 101-44.702-1 Authority to donate.

Any executive agency may donate property to public bodies in accordance with § 101-44.701-1.

§ 101-44.702-2 Disposal costs.

Any public body receiving property from an executive agency pursuant to this subpart shall pay the disposal costs incident to the donation such as packing, preparation for shipment, demilitarization, loading, and transportation to the donee.

§ 101-44.702-3 Certified and noncertified electronic products.

Whenever any item of the type defined under § 101-44.108-10 is donated to a public body in accordance with the provisions of this subpart, the head of the agency authorized to make the donation shall be responsible for the same safeguards, notifications, and certifications required by § 101-44.108-10.

Subpart 101-44.8—[Reserved]

Subpart 101-44.9—Miscellaneous Statutes

§ 101-44.900 Scope of subpart.

Property disposed of under the following statues is first subject to the requirements of Subparts 101-44.2, 101-44.4, and 101-44.5. Disposals under these statutes do not require the approval of the Administrator of General Services.

§ 101-44.901 Condemned or obsolete material.

Pursuant to 10 U.S.C. 2572, the Secretary of a military department or the Secretary of the Treasury (and the Secretary of Transportation with regard to the functions of the Coast Guard transferred to him under Pub. L. 89-670, approved October 15, 1966) may lend or give, without expense to the United States, books, manuscripts, works of art, drawings, plans, models, and condemned or obsolete combat material that are not needed by that department to recipients specified in 10 U.S.C. 2572. However, records of the Government as defined in 44 U.S.C. 3306 shall not be disposed of under this § 101-44.901.

§ 101-44.902 Obsolete, condemned, or captured vessels.

Pursuant to 10 U.S.C. 7308, the Secretary of the Navy may transfer by gift or otherwise, on terms prescribed by him and set forth in 10 U.S.C. 7308 (b) and (c), any obsolete or condemned vessel of the Navy or any captured vessel in the possession of the Department of the Navy to recipients specified in 10 U.S.C. 7308.

§ 101-44.903 Obsolete naval material.

Pursuant to 10 U.S.C. 7541, the Secretary of the Navy may give obsolete matterial not needed for naval purposes and may sell other material that may be spared at a price representing its fair value to the Boy Scouts of America for the sea scouts, the Naval Sea Cadet Corps for the sea cadets, and the Young Marines of the Marine Corps League for the young marines. The costs of transportation and delivery of material given or sold shall be charged to the Boy Scouts of America, the Naval Sea Cadets, or the Young Marines of the Marine Corps League, as appropriate.

§ 101-44.904 Obsolete material and articles of historic interest.

Pursuant to 10 U.S.C. 7545, the Secretary of the Navy may lend or give, without expense to the United States, captured, condemned, or obsolete ordnance material; books, manuscripts, works of art, drawings, plans, and models; other condemned or obsolute material, trophies, and flags; and other material of historic interest not needed by the Department of the Navy to recipients specified in 10 U.S.C. 7545. However, records of the Government as defined in 44 U.S.C. 3306 shall not be disposed of under this § 101-44.904.

§ 101-44.905 Obsolete or other Coast Guard material.

Pursuant to 14 U.S.C. 641a, the Commandant of the Coast Guard may dispose of, with or without charge, obsolete or other material not needed for the Coast Guard to recipients specified in 14 U.S.C. 641a.

Subparts 101-44.10—101-44.46—[Reserved]

Subpart 101-44.47—Reports

§ 101-44.4701 Reports.

(a) An annual report of the donation of surplus personal property shall be submitted by each Federal agency in duplicate to GSA within 60 calendar days after the close of each fiscal year, using Standard Form 121, Annual Report of Utilization and Diposal of Excess and Surplus Personal Property. Interagency report control number 0015-GSA-AN has been assigned to this reporting requirement. Section 101-43.4901-121 illustrates the SF 121, and § 101-43.4901-121-1 provides instructions for its use.

(b) An annual report of the donation of foreign excess property shall be submitted by each executive agency in duplicate to the President of the U.S. Senate and to the Speaker of the U.S. House of Representatives within 90 days after the close of each fiscal year using Standard Form 365, Annual Report of Disposal of Foreign Excess property. Interagency report control number 1526-GSA-AN has been assigned to this reporting requirement. Section 101-43.4901-365 illustrates SF 365 and provides instructions for its use.

(c) The Administrator of General Services with respect to personal property donated under Subparts 101-44.2 and 101-44.4 will submit during the calendar quarter following the close of each fiscal year a report in duplicate to the President of the U.S. Senate and to the Speaker of the U.S. House of Representatives showing the acquisition cost of all personal property so donated during the preceding fiscal year. The report also will show donations and transfers of property according to State and may include other information and recommendations that the Administrator deems appropriate.

(d) The Administrator will submit not later than April 1, 1980, and every 24 months thereafter a report in duplicate to the President of the U.S. Senate and to the Speaker of the U.S. House of Representatives which covers the preceding 2-year period and contains a full and independent evaluation of the operation of Pub. L. 94-519, the extent to which the objectives of the law have been fulfilled, how needs met by prior property programs have been met, an assessment of the degree to which the relative needs of the various recipients have been met, and whatever recommendations the Administrator determines are necessary and desirable.

(e) Each State agency shall submit a report in duplicate to the appropriate GSA regional office by the 25th day of each month, covering the preceding calendar month's activity, using GSA Form 3040, State Agency monthly Donation Report of Surplus Personal Property. (The Office of Management and Budget Approval Number 29-RO247 has been assigned to this form.) Section 101-44.4902-3040 illustrates the GSA form and § 101-44.4902-3040-1 provides instructions for its use.

(f) Each State agency shall make such additional reports to GSA as may be required by the Administrator to carry out his discretionary authority to transfer surplus personal property for donation and to report to the Congress on the status and progress of the donation program.

[42 FR 56003, Oct. 20, 1977, as amended at 43 FR 26579, June 21, 1978]

Subpart 101-44.48—[Reserved]

Subpart 101-44.49—Illustrations of Forms

§ 101-44.4900 Scope of subpart.

This subpart illustrates forms prescribed or available for use in connection with subject matter covered in this Part 101-44.

§ 101-44.4901 Standard forms.

(a) Standard forms are illustrated in this section to show their text, format and arrangement and to provide a ready source of reference. The subsection numbers in this section correspond with the Standard form numbers.

(b) The Standard forms illustrated in this § 101-44.4901 may be obtained by Federal activities by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office providing support to the requesting activity. State agencies may obtain copies of these forms from the U.S. Government Printing Office, Superintendent of Documents, Washington, D.C. 20402.

§ 101-44.4901-123 Standard Form 123, Transfer Order Surplus Personal Property.

NOTE: The form illustrated in § 101-44.4901-123 is filed as part of the original document.

§ 101-44.4901-123-A Standard Form 123-A, Transfer Order Surplus Personal Property (Continuation sheet).

NOTE: The form illustrated in § 101-44.4901-123-A is filed as part of the original document.

§ 101-44.4901-123-1 Instructions for preparing and processing Standard Form 123.

(a) *Preparing Standard Form 123.*—(1) *General*—(i) The Standard Form 123 must include all information required to be entered on the form. Particular care should be taken to ensure that the transfer order indicates the surplus release date (SRD), sometimes referred to as the automatic release date (ARD); indentifies property as reportable or nonreportable; shows applicable GSA, Department of Defense (DOD, and holding activity control or report numbers; indicates the holding agency document or voucher number for nonreportable property; and contains authorized signatures in ink on the original (copies of transfers orders may have stamped signatures). All other entries must be typed or printed. All city and States addresses shown on the form should include the ZIP code. Transfer orders received without sufficient information will be returned to the applicant or held in suspense until the missing information is obtained from the appropriate source. SF 123-A (Continuation sheet) shall be used for listing any additional property.

(ii) Separate transfer orders should be prepared for:

(A) Reportable property located at a single holding agency;

(B) Nonreportable property located at a single holding agency;

(C) Reportable property listed at different holding agencies; and

(D) Nonreportable property located at different holding agencies.

(iii) Recognized abbreviations for Federal agencies or donee organizations may be used in completing SF 123; e.g., GSA (General Services Administration); FAA (Federal Aviation Administration, Department of Transportation); SA (State agency); BSA (Boy Scouts of America); and DPDS (Defense Property Disposal Service).

(2) *Adjustments and disapprovals.* Any adjustment or partial disapproval made for the property listed in block 12 shall be initialed by the representative and/or officer signing in block 13b, 13d, 14b, or 14d. When a transfer order is disapproved in its entirety, the represenative or officer who disapproves the action will return the SF 123 to the applicant with an explanation of the disapproval. When a line item is disapproved, it will be crossed out, marked "disapproved," and initialed by the representative or officer making the deletion.

(3) *Entries*—(i) *Order number(s) (block 1).* Enter the State serial number and/or transfer order and control numbers assigned by DOD, FAA, or the donees. If the continuation sheet (SF 123-A) is used, it must contain the same transfer order number(s).

(ii) *Type of Order (block 2).* Insert "X" in the appropriate square to indentify the type of order.

(iii) *Surplus Release Date (block 3).* Enter the surplus release date, sometimes called the automatic release date, as follows:

(A) *DOD Property Reported to DPDS Only.* The correct date may be obtained from DPDS or the holding activity.

(B) *DOD Property Reported to GSA Through DPDS.* The correct date may be obtained from DPDS, GSA, or the holding activity.

(C) *Executive Agency Property Reported Directly to GSA.* The correct date may be obtained from GSA or the holding agency.

(D) *Property Not Reported to DPDS or GSA.* The surplus release date is assigned by the holding agency (property disposal officer) and must be obtained therefrom. When nonreported property items with several surplus release dates are listed, each date should follow the respective line item and block 3 will not be completed.

(iv) *Set-Aside Date (block 4).* Enter the date on which nonreported property was set aside at the holding agency by an authorized donee representative, pursuant to § 101-44.109. The insertion of a set-aside date will indicated to the GSA officer that the property is available as surplus and that the holding agency has agreed to set the property aside pending receipt of donation approval.

(v) *Type of Property (block 5).* Insert "X" in the appropriate square to indentify the property as reportable or nonreportable to GSA. An "X" shall not be inserted to indentify the property as nonreportable when any property listed is either reportable to GSA or had previously been reported on SF 120, Report of Excess Personal Property, to GSA in accordance with § 101-43.311. Reportable property never loses its identity.

(vi) *Total Acquisition Cost (block 6).* Enter the sum of all the total costs shown under block 12(g) and on continuation sheets when appropriate.

(vii) *General Services Administration, Federal Supply Service, Personal*

Property Division (*block 7*). add the street addresss, city, State, and ZIP code of the appropriate GSA office.

(viii) *Location of Property* (*block 8*). Insert the actual location of the property, including if available the warehouse or building number, street address, city, State, and ZIP code or other specific location of the property listed in block 12.

(ix) *Holding Agency* (*block 9*). Enter the complete name and address of the holding agency, including ZIP code; i.e., the executive agency which has accountability and administrative control over the property. It may or may not be the same as the property location.

(x) *For GSA Use Only* (*block 10*). The GSA regional office will enter the appropriate codes in order to satisfy automated control reporting requirements.

(xi) *Pickup or Shipping Instructions* (*block 11*). Insert the name, address, including ZIP code, and telephone number of the State agency or donee representative to be notified or property availability when the property listed in block 12 is to be picked up. Enter shipping instructions when the property listed in block 12 is to be shipped. The applicant shall pay all transportation costs.

(xii) *Surplus Property List* (*blocks 12* (*a*), (*b*), (*c*), (*d*), (*e*), (*f*), *and* (*g*))— (A) *Line Item Number.* Enter in block 12(a) the identical number assigned to the line item on the document from which the control numbers indicated in block 12(b) are selected.

(B) *Identification Numbers.* Enter inblock 12(b) pertinent identification numbers as follows:

(*i*) *GSA control number.* Military property reported to GSA through DPDS and all civilian and military agency property reported directly to GAS is assigned a GSA control number. The GSA control number may be obtained from the appropriate GSA office. In all cases in which a GSA control number is asisgned, it must be entered on SF 123.

(*ii*) *DOD excess report number.* All excess property reported to DPDS is assigned a DOD excess report number. For such property subsequently reported to GSA, the DOD excess report number may be obtained from GSA or the DPDO/holding activity. The DOD excess report number for DOD property screened by DPDS but not reported to GSA for screening may be obtained from DPDS or the DPDO/holding activity. In all cases in which a DOD excess report number is assigned, it must be entered on the SF 123.

(*iii*) *Holding agency control number.* The holding agency assigns a control number for all reportable property. For non-reportable property, the holding agency assigns a document or voucher number. This control number can be made available by the holding agency, and in the case of reported property, by GSA or DPDS (for DOD property) as appropriate.

(C) *Description.* Enter in block 12(c) the item description. Include national stock number and noun name, if available. Otherwise, furnish Federal supply class number and commercial description, when possible. This space on the form may also be used to insert additional data pertinent to the description of the property; e.g., serial numbers and packaging information.

(D) *Condition Code.* Enter in block 12(d) the identical condition code indicated for the line item on the document from which each item of property listed in block 12(c) was selected. Condition codes are illustrated at § 101-43.4901-120-1.

(E) *Quantity and Unit of Issue.* Enter in block 12(e) the exact quantity and unit of issue (each, inches, feet, pounds, tons, dozen, gross, etc.) for each line item.

(F) *Unit Acquisition Cost.* Enter in block 12(f) for each line item the acquisition cost of the unit of issue indicated in block 12(e). This information is available from the document on which the property was originally listed.

(G) *Total Acquisition Cost.* Enter in block 12(g) for each line item the total acquisition cost of the quantity of unit of issue indicated in block 12(e). Care should be taken to ensure that the multiplication of the unit acquisition cost time quantity is correct.

(xiii) *Transferee Action* (*blocks 13 a, b, c, d, and e*)—(A) *State agency.* Enter in block 13a the name and address, including ZIP code, or the State agency which is making the request for the property the authorized official of the State agency shall sign his name and enter his title in block 13b, and show in block 13c the date he signs the SF 123.

(B) *Service educational activity.* Enter in block 13a the name and address of the school, club, or council specifically designated by the service educational activity (SEA). Include the ZIP code and the county in which the service educational activity is located. The authorized donee representative (an officer of the school, club, or council authorized to request donable surplus property) shall sign his name and enter his title in block 13b, and show in block 13c the date he signs the SF 123. An authorized official of the national headquarters shall indicate approval by signing in block 13d and show in block 13e the date he signs the SF 123.

(C) *Public airport.* Enter in block 13a the name and address of the public airport or the authorized State aeronautical agency which is requesting the property. Include the ZIP code and the county in which the public airport or State aeronautical agency is located. The authorized official of the public airport or State aeronautical agency or its designated representative shall sign his name and enter his title in block 13b, and show in block 13c the date he signs the SF 123.

(xiv) *Administrative action*—(A) *Determining Officer (DOD or FAA) (blocks 14 a, b, and c)*—(*i*) *Department of Defense.* For donation of nonreported surplus property to service educational activities, enter in block 14a the name and address, including ZIP code, of the property disposal officer controlling the property. He shall sign in block 14b and enter the date in block 14c. The property disposal officer shall not authenticate SF 123 for donations for a state agency or a public airport.

(*ii*) *Federal Aviation Administration.* Enter in block 14a the name and title of the appropriate FAA official. He shall sign in block 14b and enter the date in block 14c.

(B) *GSA Approving Officer (blocks 14 d, e, and f).* Enter in block 14d the name and title of the GSA officer approving the order. He will sign his name in block 14e and enter the date in block 14f.

(b) *Processing SF 123*—(1) *Public agencies and eligible nonprofit tax-exempt activities.* (i) Upon a determination that surplus property is necessary and useful for public agencies and eligible nonprofit tax-exempt activities, the State agency shall prepare and submit an original and five copies of SF 123 to the appropriate GSA office and shall send an information copy to the holding agency. The State agency official shall sign in block 13b. When the location of the property is different from that of the holding agency, an additional copy may be sent to the location for informational purposes. Block 11, "Pickup of Shipping Instruction," shall be completed, as well as blocks 13 b and c.

(ii) At the time the property is determined surplus and approved for transfer by GSA, the GSA office will complete SF 123 in blocks 14 d, e, and f; retain one copy for the files; return two copies to the State agency; and send the original and one copy direct to the holding agency.

(iii) The holding agency upon receipt of the SF 123 shall release the property for donation promptly in accordance with the pickup or shipping instructions.

(2) *Service educational activity*—(i) *DOD property reported to DPDS.* (A) Transfer orders for property listed in DPDS excess listings shall be initiated by a school or the national headquarters of the SEA by transmitting an original and five copies of SF 123 to its authorized donee representative. The SF 123 shall be completed except for block 13.

(B) The authorized donee representative shall complete blocks 13 a, b, and c and return the original and four copies to the national headquarters if applicable. The fifth copy shall be retained by the authorized donee representative.

(C) The SEA national headquarters, if appropriate, or the sponsoring military service shall indicate approval by signing block 13d of the SF 123 and entering the date in block 11e. That activity shall then forward the orignal and three copies of the SF 123 to DPDS, retaining the fourth copy for its files.

(D) DPDS shall hold the SF 123 until it determines the property excess to the needs of DOD. When the property is determined excess the SF 123 (the original and three copies), with a copy of the excess report, shall be sent to the appropriate GSA regional office.

(E) At such time as the property is determined surplus and approved for transfer by GSA, the GSA office will complete blocks 14 d, e, and f; retain one copy; send the origingal and one copy to the holding agency; and send an informational copy to the State agency for the State in which the SEA school, club, or council is located.

(F) The property disposal officer, upon receipt of the approved SF 123 from GSA, shall release the property to the authorized donee representative in accordance with the pickup or shipping instructions shown in block 11.

(ii) *DOD property reported direct to GSA.* (A) Transfer orders shall be initiated by the authorized donee representative of the SEA by preparing an original and five copies of SF 123. The authorized donee representative shall complete blocks 13 a, b, and c and send the original and four copies to the national headquarters if applicable. The fifth copy shall be retained by the authorized donee representative.

(B) The authorized official of the national headquarters shall indicate approval by signing block 13d of the SF 123 and entering the date in block 13e. He shall then forward the original and three copies of the SF 123 to the GSA regional office for the region in which the property is located, retaining the fourth copy for his files.

(C) At such time as the property is determined surplus and approved for transfer by GSA, the GSA office will complete blocks 14 d, e, and f; retain one copy; send the original and one copy to the holding agency; and send an informational copy to the State agency for the State in which the SEA school, club, or council is located.

(D) The property disposal officer, upon receipt of the approved SF 123 from GSA, shall release the property to the authorized donee representative in accordance with the pickup or shipping instructions shown in block 11.

(iii) *DOD property not reported to either DPDS or GSA.* (A) Transfer orders shall be initiated by the authorized donee representative of the SEA by preparing an original and six copies of SF 123. The authorized donee representative shall complete blocks 13 a, b, and c. The original and five copies shall be sent to the property disposal officer, who shall complete blocks 14 a, b, and c.

(B) The property disposal officer shall retain one copy of the SF 123 and return the original and four copies to the authorized donee representative.

(C) The authorized donee representative shall send the original and four copies of the SF 123 to the national headquarters of the SEA for approval if applicable. The authorized official of the national headquarters shall indicate approval by signing block 13d and entering and entering the date in block 13e. He shall then forward the original and three copies of the SF 123 to the GSA regional office for the region in which the property is located, retaining the fourth copy for his files.

(D) At such time as GSA approves the transfer, the GSA office will complete the SF 123 in blocks 13 d, e, and f; retain one copy, send the original and one copy to the holding agency; and send an informational copy to the State agency for the State in which the SEA school, club, or council is located.

(E) The property disposal officer, upon receipt of the approved SF 123 from GSA, shall release the property to the authorized donee representative in accordance with the pickup or shipping instructions shown in block 11.

(3) *Public airport.* (i) The applicant shall prepare and submit an original and four copies of SF 123 to the appropriate FAA official for surplus property required for public airport purposes. The applicant shall sign in block 13b. One copy of SF 123 shall be sent to the holding agency by the applicant.

(ii) The appropriate FAA official shall indicate approval by completing blocks 14 a, b, and c; retain one copy;

and send the original and three copies to the appropriate GSA office.

(iii) At such time as the property is determined surplus and approved for transfer by GSA, the GSA office will complete SF 123 in blocks 14 d, e, and f; forward the original to the holding agency; return two copies to the appropriate FAA official; and retain one copy for the files.

(iv) The appropriate FAA official shall send one copy of the SF 123 to the applicant and retain one copy for the files.

(v) The holding agency, upon receipt of the approved SF 123, shall proceed to release the property for donation in accordance with the pickup or shipping instructions.

(c) *General information regarding SF 123.* (1) SF 123 is printed in a 10-part, snap-out set. Sets can be purchased by FAA and DOD for distribution to authorized donees or applicants by ordering direct from the General Services Administration (3 FFI), Region 3, Washington, D.C. 20407. SF 123-A (Continuation sheet) can also be purchased from the same source. The continuation sheet is printed in a 10-part, snap-out set. State agencies may obtain copies of these forms from the U.S. Government Printing Office, Superintendent of Documents, Washington, D.C. 20402.

(2) SF 123 and SF 123-A sets are color coded, having two each of five different colors in each set.

(3) The SF 123 is designed for mailing in a 3⅞- by 8⅞-inch window envelope with a 1⅛-by 4-inch window positioned one-half inch from the bottom and three-fourths of an inch from the left side of the envelope. Slightly larger window envelopes may also be satisfactory, but the size and position of the window should not be altered. Copies should be folded along the horizontal line above block 11, and when inserted in a window envelope the typed holding agency address will show through the window.

[42 FR 56003, Oct. 20, 1977, as amended at 45 FR 56810, Aug. 26, 1980]

§ 101-44.4902 GSA forms.

(a) GSA forms are illustrated in this section to show their text, format, and arrangement, and provide a ready source of reference. The subsection numbers in this section correspond with the GSA form numbers.

(b) State agencies may obtain GSA Form 3040, State Agency Monthly donation Report of Surplus Personal Property, from the GSA regional office serving the geographical area in which the State agency is located.

§ 101-44.4902-3040 GSA Form 3040, State Agency Monthly Donation Report of Surplus Personal Property.

NOTE: The form illustrated in § 101-44.4902-3040 is file as part of the original document.

§ 101-44.4902-3040-1 Instructions for preparing GSA Form 3040.

NOTE: The instructions illustrated in § 101-44.4902-3040-1 are filed as part of the original document.

PART 101-45—SALE, ABANDONMENT, OR DESTRUCTION OF PERSONAL PROPERTY

Sec.
101-45.000 Scope of part.
101-45.001 Definitions of terms.
101-45.001-1 Auction.
101-45.001-2 Cotton or woolen goods.
101-45.001-3 Firearms.
101-45.001-4 Identical bids.
101-45.001-5 Line item.
101-45.001-6 Reviewing authority.
101-45.001-7 Small business concern.

Subpart 101-45.1—General

101-45.101 Applicability.
101-45.102 Needs of Federal agencies paramount.
101-45.103 Sales responsibilities.
101-45.103-1 Responsibilities of the General Services Administration.
101-45.103-2 Responsibilities of holding agencies.
101-45.104 Care and handling pending disposal.
101-45.105 Exclusions and exemptions.
101-45.105-1 Materials required for the national stockpile or the supplemental stockpile, or under the Defense Production Act.
101-45.105-2 Disposal of certain vessels.
101-45.105-3 Exemptions.
101-45.106 Property controlled by other law.
101-45.107 Holding agency compliance function.

Sec.
101-45.107-1 Referral to other Government agencies.
101-45.107-2 Compliance reports.

Subpart—101-45.2—[Reserved]

Subpart 101-45.3—Sale of Personal Property

101-45.300 Scope of subpart.
101-45.301 Policy.
101-45.302 Sale to Government employees.
101-45.303 Reporting property for sale.
101-45.303-1 Describing property.
101-45.303-2 Display and inspection.
101-45.303-3 Delivery.
101-45.304 Sales methods and procedures.
101-45.304-1 Competitive bid sales.
101-45.304-2 Negotiated sales and negotiated sales at fixed prices.
101-45.304-3 Small lot sales.
101-45.304-4 Lotting.
101-45.304-5 Inspection by bidders.
101-45.304-6 Reviewing authority.
101-45.304-7 Advertising.
101-45.304-8 Forms prescribed.
101-45.304-9 Credit.
101-45.304-10 Deposits and final payments.
101-45.304-11 Deposit bonds.
101-45.304-12 Sales to State and local governments.
101-45.305 [Reserved]
101-45.306 Contractor inventory.
101-45.307 Proceeds from sales.
101-45.308 [Reserved]
101-45.309 Special classes of property.
101-45.309-1 Agricultural commodities.
101-45.309-2 Dangerous property.
101-45.309-3 Demilitarization and decontamination.
101-45.309-4 Firearms.
101-45.309-5 Garbage.
101-45.309-6 Controlled substances.
101-45.309-7 Drugs, biologicals, and reagents other than controlled substances.
101-45.309-8 Bedding and upholstered furniture.
101-45.309-9 Gold.
101-45.309-10 Safes and locking file cabinets.
101-45.309-11 Certified and noncertified electronic products.
101-45.310 Antitrust laws.
101-45.311 Assistance in controlling unauthorized transport of property.
101-45.312 Auctioneers.
101-45.313 Procedures and forms concerning contingent or other fees for soliciting or securing contracts.
101-45.313-1 Purpose.
101-45.313-2 Objectives and methods.
101-45.313-3 Representation and covenant.
101-45.313-4 General principles and standards applicable to the covenant.
Sec.
101-45.313-5 Standard Form 119, Contractor's Statement of Contingent or Other Fees.
101-45.313-6 Use of Standard Form 119, Contractor's Statement of Contingent or Other Fees.
101-45.313-7 Exceptions.
101-45.313-8 Enforcement.
101-45.313-9 Preservation of records.
101-45.314 Federal excise taxes.
101-45.315 Equal Opportunity clause in contracts.
101-45.316 Report on identical bids.
101-45.316-1 Governing order.
101-45.316-2 Reporting requirements and procedures.
101-45.316-3 Supplemental requests by Attorney General.
101-45.316-4 Antitrust law referrals.
101-45.317 Noncollusive bids and proposals.
101-45.318 Identical bids.

Subpart 101-45.4—[Reserved]

Subpart 101-45.5—Abandonment or Destruction of Surplus Property

101-45.500 Scope of subpart.
101-45.501 Findings justifying abandonment or destruction.
101-45.501-1 General.
101-45.501-2 Reviewing authority.
101-45.502 Authority to abandon or destroy.
101-45.503 Notice of proposed abandonment or destruction.
101-45.504 Abandonment or destruction without notice.
101-45.505 Destruction of surplus drugs, biologicals, and reagents.
101-45.506 Abandonment or destruction of expendable property.

Subpart 101-45.6—Debarred and Suspended Bidders

101-45.600 Scope of subpart.
101-45.601 Applicability.
101-45.602 General.
101-45.603 Notices of debarment or suspension.

Subpart 101-45.7—Submission of Bids

101-45.700 Scope of subpart.
101-45.701 Responsiveness of bids.
101-45.702 Time of bid submission.
101-45.703 Late bids.
101-45.703-1 General.
101-45.703-2 Consideration for award.
101-45.703-3 Telegraphic bids.
101-45.703-4 Handcarried bids.
101-45.703-5 Disposition of late bids.
101-45.703-6 Records.

Sec.
101-45.704 Modification or withdrawal of bids.
101-45.705 Late modifications and withdrawals.

Subpart 101-45.8—Mistakes in Bids

101-45.800 Scope of subpart.
101-45.801 General.
101-45.802 Apparent clerical mistakes.
101-45.803 Other mistakes disclosed before award.
101-45.804 Mistakes disclosed after award.
101-45.805 Mistakes disclosed after award in negotiated sales.

Subpart 101-45.9—101.45.46—[Reserved]

Subpart 101-45.47—Reports

101-45.4700 Scope of subpart.
101-45.4701 Performance reports

Subpart 101-45.48—Exhibits

101-45.4800 Scope of subpart.
101-45.4801 Instructions for the preparation of advance notice to the Department of Commerce.
101-45.4802 Sample format—irrevocable letter of credit.
101-45.4803 General instructions for preparation of irrevocable letter of credit.
101-45.4804 Sample format—draft drawn against irrevocable letter of credit.
101-45.4805 Sample format—transmittal letter to accompany letter of credit.
101-45.4806 Outline for preparation of explanatory statement relative to negotiated sales.
101-45.4807 Equal Opportunity clause.
101-45.4808 State health agencies.
101-45.4809 State radiation control agencies.

Subpart 101-45.49—Illustrations of Forms

101-45.4900 Scope of subpart.
101-45.4901 Standard forms
101-45.4901-28 Standard Form 28, Affidavit of Individual Surety.
101-45.4901-97 Standard Form 97, The United States Government Certificate of Release of a Motor Vehicle.
101-45.4901-97-1 Instructions for use of Standard Form 97.
101-45.4901-97A, Standard Form 97A Agency Record Copy of the United States Government Certificate of Release of a Motor Vehicle.
101-45.4901-114 Standard Form 114, Sale of Government Property—Bid and Award.
101-45.4901-114A Standard Form 114A, Sale of Government Property—Item Bid Page—Sealed Bid.
Sec.
101-45.4901-114B Standard Form 114B, Sale of Government Property—Item Bid Page—Sealed Bid.
101-45.4901-114C Standard Form 114C, Sale of Government Property—General Sale Terms and Conditions.
101-45.4901-114C-1 Standard Form 114C-1, Sale of Government Property—Special Sealed Bid Conditions.
101-45.4901-114C-2 Standard Form 114C-2, Sale of Government Property—Special Sealed Bid—Term Conditions.
101-45.4901-114C-3 Standard Form 114C-3, Sale of Government Property—Special Spot Bid Conditions.
101-45.4901-114C-4 Standard Form 114C-4, Sale of Government Property—Special Auction Conditions.
101-45.4901-114D Standard Form 114D, Sale of Government Property—Amendment of Invitation for Bids/Modification of Contract.
101-45.4901-114E Standard Form 114E, Sale of Government Property—Negotiated Sales Contract.
101-45.4901-114F Standard Form 114F, Sale of Government Property—Item Bid Page—Spot Bid or Auction.
101-45.4901-126 Standard Form 126, Report of Personal Property for Sale.
101-45.4901-126A Standard Form 126A, Report of Personal Property for Sale (Continuation Sheet).
101-45.4901-150 Standard Form 150, Deposit Bond—Individual Invitation, Sale of Government Personal Property.
101-45.4901-151 Standard Form 151, Deposit Bond—Annual, Sale of Government Personal Property.
101-45.4902 GSA forms.
101-45.4902-27 GSA Form 27, Notice of Award (Sale of Government-Owned Personal Property).
101-45.4902-27A GSA Form 27A, Notice of Award—Continuation.
101-45.4903 Optional forms.
101-45.4903-15 Optional Form 15, poster, Sale of Government Property.
101-45.4903-16 Optional Form 16, Sales Slip, Sale of Government Personal Property.
101-45.4903-20 Optional Form 20, Notice to Surety—Deposit Bond—Annual Sale of Government Personal Property.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), §§ 101-45.400 to 101-45.405 also issued under sec. 307, 49 Stat. 880; 40 U.S.C. 304*l*.

SOURCE: 30 FR 2930, Mar. 6, 1965, unless otherwise noted.

§ 101-45.000 Scope of part.

This part prescribes policies and methods governing the disposal by public sale, abandonment, or destruction of personal property (including salvage, scrap, and waste materials) owned by the Government when this property is no longer needed for use in authorized programs or is being replaced by a similar type of property and is located within the United States, the Commonwealth of Puerto Rico, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands.

[41 FR 22273, June 2, 1976]

§ 101-45.001 Definitions of terms.

For the purposes of this Subchapter H the following terms shall have the meanings set forth in this section.

[41 FR 22273, June 2, 1976]

§ 11-45.001-1 Auction.

"Auction" means a sale by outcry, orally soliciting bids by gradual increase using a rhythmic chant calling the amount bid and the increased amount being solicited until the highest bid is received.

[41 FR 22273, June 2, 1976]

§ 101-45.001-2 Cotton or woolen goods.

"Cotton or woolen goods" means any textile, article, or product resulting from the processing or manufacturing, in whole or in major part, of cotton or wool.

[41 FR 22273, June 2, 1976]

§ 101-45.001-3 Firearms.

"Firearms" means a weapon which is designed to expel a projectile or projectiles by the action of an explosive, and a muffler or silencer for the weapon.

[41 FR 22273, June 2, 1976]

§ 101-45.001-4 Identical bids.

"Identical bids" means two or more bids received for the same line item of an invitation for bids issued under formal advertising procedures which:

(a) Appear on the face of the bids to be identical as to unit price or total amount; or

(b) Are found, in the contracting agency's normal process of evaluating bids for award, to be identical as to unit price or total amount.

[41 FR 22273, June 2, 1976]

§ 101-45.001-5 Line item.

"Line item" means: (a) A single line entry on a reporting form which indicates a quantity of personal property located at any one activity having the same description, condition code, and unit cost; or

(b) An item of personal property specified in an invitation for bid which, under the terms of the invitation, is susceptible to a separate contract award.

[41 FR 22273, June 2, 1976]

§ 101-45.001-6 Reviewing authority.

"Reviewing authority" means a local, regional, or departmental board of review of an executive agency. Under Subpart 101-45.5, reviewing authority also includes an applicable State board of review of a State agency for surplus Property.

[42 FR 56025, Oct. 20, 1977]

§ 101-45.001-7 Small business concern.

"Small business concern" means any concern or group of concerns which qualifies as a "small business concern" under governing standards of the Small Business Administration. (See 13 CFR Part 121.)

[41 FR 22273, June 2, 1976]

Subpart 101-45.1—General

§ 101-45.101 Applicability.

(a) This Part 101-45 applies to all agencies in the executive, legislative, and judicial branches of the Government, except the Senate, the House of Representatives, and the Architect of the Capitol and any activities under his direction, to the extent provided in the Federal Property and Administrative Services Act of 1949, as amended (hereinafter generally referred to in this Part 101-45 as "the Act").

(b) The provisions of this Part 101-45, relating specifically to sales of surplus personal property, do not apply to sales by the Secretary of Defense made pursuant to 10 U.S.C. 2576.

[34 FR 5172, Mar. 13, 1969]

§ 101-45.102 Needs of Federal agencies paramount.

Any need for personal property expressed by any Federal agency (including the Senate, the House of Representatives, and the Architect of the Capitol and any activities under his direction, the District of Columbia, and mixed-ownership corporations as defined in the Government Corporation Control Act) shall be paramount to any disposal, if such need is made known to the holding or selling agency prior to actual removal of the property from Government control in the case of sale.

[33 FR 10010, July 12, 1968]

§ 101-45.103 Sales responsibilities.

§ 101-45.103-1 Responsibilities of the General Services Administration.

GSA through its regional offices shall be responsible for:

(a) Conducting sales for holding agencies;

(b) Performing all aspects of sales preparation including, but not limited to, advertising, collection, documentation, deposit of proceeds, and contract administration;

(c) Programing property for sale from existing locations insofar as possible;

(d) Providing for consolidated sales when it is determined to be advantageous and economical to the Government, with a minimum movement of property;

(e) Accepting physical custody of property transported by holding agencies to a consolidated sales site provided by GSA;

(f) Apprising the holding agencies of sales plans and requesting essential administrative, clerical, or labor assistance when such assistance is available; and

(g) Controlling routine correspondence pertaining to the personal property sales program.

§ 101-45.103-2 Responsibilities of holding agencies.

Holding agencies shall be responsible for:

(a) Providing the appropriate GSA regional office with information necessary for effective sale of property and the accounting data for appropriate application of gross proceeds;

(b) Transporting property to a consolidated sales site when agreed to by the holding agency and GSA;

(c) Providing for the inspection of property by prospective bidders;

(d) Providing facilities for the conduct of sales and the essential administrative, clerical or labor assistance when requested by GSA; and

(e) Assisting in the physical lotting of property to be sold.

§ 101-45.104 Care and handling pending disposal.

Pending disposal, each holding agency shall be responsible for performing, and bear the cost of, care and handling of its property.

§ 101-45.105 Exclusions and exemptions.

§ 101-45.105-1 Materials required for the national stockpile or the supplemental stockpile, or under the Defense Production Act.

This Part 101-45 does not apply to materials acquired for the national stockpile or the supplemental stockpile or to materials or equipment acquired under section 303 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2093). However, to the extent deemed appropriate the provisions of this Part 101-45 should be followed in the disposal of such materials.

§ 101-45.105-2 Disposal of certain vessels.

The Secretary of Commerce has jurisdiction over the disposal of vessels of 1,500 gross tons or more which the Secretary determines to be merchant vessels or capable of conversion to merchant use. Such vessels, therefore, are excluded from the provisions of this Part 101-45.

§ 101-45.105-3 Exemptions.

The sale by GSA of property (excluding contractor inventory under the control of the Department of Defense) as required by this Part 101-45 has been determined at this time to be advantageous to the Government in terms of economy, efficiency, and service with due regard to the program activities of the agencies concerned. Exemptions from the provisions of this Part 101-45 may be obtained only under the following circumstances:

(a) Any agency head who believes that authority with respect to the programs covered by section 602(d) of the Act would be impaired or adversely affected by this Part 101-45, may seek an exemption from the Administrator of General Services by a letter explaining the impairment or adverse effect and justifying the exemption; or

(b) A holding agency, after notification to the appropriate GSA regional office, may elect to sell small lots of personal property where the estimated proceeds from a sale will not exceed $250 and perishable items regardless of the estimated proceeds from a sale. Holding agencies are responsible for making or obtaining accurate estimates of the market value of small lots of personal property to ensure that the estimated proceeds of sale do not exceed $250. Optional Form 15, poster, Sale of Government Property (see § 101-45.4903-15), and Optional Form 16, Sales Slip, Sale of Government Personal Property (see § 101-45.4903-16), are prescribed for use by holding agencies for the sale of this property. These forms may be obtained as stated in § 101-45.4903. Procedures for conducting these sales are set forth in § 101-45.304-3.

[30 FR 2930, Mar. 6, 1965, as amended at 45 FR 38369, June 9, 1980]

§ 101-45.106 Property controlled by other law.

No property shall be disposed of in violation of any other applicable law.

§ 101-45.107 Holding agency compliance function.

Subject to the provisions of § 101-45.107-1 requiring referral of criminal matters to the Department of Justice, each holding agency shall perform investigatory functions as are necessary to insure compliance with the provisions of the Federal Property Act and with the regulations, orders, directives, and policy statements of the Administrator of General Services. Nothing in this § 101-45.107 should be deemed to affect the jurisdiction of any agency over its own personnel or any existing arrangements with Department of Justice concerning the handling and prosecution of criminal matters.

§ 101-45.107-1 Referral to other Government agencies.

All information indicating violations by any person of Federal criminal statutes, or violations of section 209 of the Federal Property Act, including, but not limited to, fraud against the Government, mail fraud, bribery, attempted bribery, or criminal collusion, shall be referred immediately to the Department of Justice, for further investigation and disposition. Each holding agency shall make available to the Department of Justice, or to such other governmental investigating agency to which the matter may be referred by the Department of Justice, all pertinent information and evidence concerning the indicated violations; shall desist from further investigation of the criminal aspects of such matters except upon the request of the Department of Justice; and shall cooperate fully with the agency assuming final jurisdiction in establishing proof of criminal violations. After making the necessary referral to the Department of Justice, inquiries conducted by the holding agency compliance organizations shall be limited to obtaining information for administrative purposes. Where irregularities reported or discovered involve wrongdoing on the part of individuals holding positions in Government agencies other than the agency initiating the investigation, the case shall be reported immediately to the Administrator of General Services for an examination in the premises.

§ 101-45.107-2 Compliance reports.

A written report shall be prepared on all compliance investigations conducted by each agency compliance organization. Each holding agency shall maintain files of all such reports. Until otherwise directed by the Administrator of General Services, there shall be transmitted promptly to GSA one copy of any such report which contains information indicating criminality on the part of any person or indicating substantial noncompliance with the Act or with the regulations, orders, directives, and policy statements of the Administrator of General Services. In transmitting such reports to the Administrator of General Services, the agency shall set forth the action taken or contemplated by the agency to correct the improper conditions disclosed by the investigation. Where any matter is referred to the Department of Justice, a copy of the letter of referral shall be transmitted to GSA.

Subpart 101-45.2—[Reserved]

Subpart 101-45.3—Sale of Personal Property

§ 101-45.300 Scope of subpart.

This subpart prescribes the policies and methods governing the disposal of personal property by sale.

§ 101-45.301 Policy.

The General Services Administration will act as the single sales agency of the Government in the sale of personal property under control of executive agencies including surplus, contractor inventory, and that property designated to be sold for replacement under Section 201(c) of the Act, 63 Stat. 384, except for that property or those activities exempted under § 101-45.105.

§ 101-45.302 Sale to Government employees.

To the extent not prohibited by the regulations of an executive agency, an employee of such agency (either as a civilian or as a member of the Armed Forces of the United States, including the U.S. Coast Guard, on active duty) may be allowed to purchase Government personal property. The term employee as used in this section includes an agent or immediate member of the household of the employee.

[35 FR 14134, Sept. 5, 1970]

§ 101-45.303 Reporting property for sale.[1]

Holding agencies shall report property to be sold by GSA to the appropriate GSA regional office for the region in which the property is physically located in the manner outlined below:

(a) *Reportable property.* Property required to be reported to the GSA regional offices for utilization screening as set forth in Part 101-43, if not transferred or donated, will be programmed for sale by the GSA regional office.

(b) *Nonreportable property.* Property not required to be reported for utilization screening and for which any required donation screening has been completed shall be reported to the appropriate GSA regional office on Standard Form 126, Report of Personal Property for Sale (illustrated in § 101-45.4901-126). Standard Form 126A, Report of Personal Property for Sale—Continuation Sheet, shall be used if additional pages are required. Standard Forms 126 and 126A are stocked as five-part carbon interleaved forms and may be obtained by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office providing support to the requesting activity.

[30 FR 2930, Mar. 6, 1965, as amended at 31 FR 5000, Mar. 26, 1966; 42 FR 40852, Aug. 12, 1977]

§ 101-45.303-1 Describing property.

In the interest of good business practice, property reported for sale shall be described in commercial terminology and as fully and accurately as possible, including its condition.

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[1] See Temporary Regulation H-23 in the appendix to Subchapter H for temporary changes to § 101-45.303.

§ 101-45.303-2 Display and inspection.

Holding agencies shall assist prospective bidders to the maximum extent possible during the inspection period prescribed in the sales offering. However, no information shall be provided to a prospective bidder which is not available to all bidders.

§ 101-45.303-3 Delivery.

(a) After full payment has been received from a buyer, the GSA regional office will notify the holding activity by copy of the GSA Form 27, Notice of Award (also GSA Form 27A, Notice of Award—Continuation), that property may be released to the purchaser. (See §§ 101-45-4902-27 and 101-45.4902-27A.) Upon completion of a sale, holding activities will be provided additional copies of the GSA Form 27 for use as an internal accounting document. If a purchaser fails to remove property within the period specified, the GSA regional office shall be advised of this fact immediately in order that appropriate action may be taken.

(b) Delivery of motor vehicles to purchasers shall be evidenced by submission to the purchaser of a completed copy of Standard Form 97, The United States Government Certificate of Release of a Motor Vehicle. The form shall be signed in accordance with requirements established by the head of the agency selling the vehicle. Proper precautions shall be exercised by agency heads to prevent blank copies of Standard Form 97 from being obtained by unauthorized persons. Instructions for the use of this form are in § 101-45.4901-97-1. Standard Form 97 is illustrated in § 101-45.4901-97.

[42 FR 40852, Aug. 12, 1977]

§ 101-45.304 Sales methods and procedures.

§ 101-45.304-1 Competitive bid sales.

Except as provided in § 101-45.304-2, property shall be sold by competitive bid sale after advertising, in accordance with this § 101-45.304-1. Competitive bid sales include the following:

(a) *Sealed bid sales.* In sealed bid sales, bidders shall be required to submit, to the office designated for receipt and opening of bids, sealed written bids on authorized bid forms for public opening at a time and place designated.

(b) *Spot bid sales.* In spot bid sales, bidders shall be furnished with bid forms in advance of the bidding, a bid form to be used for each lot or unit to be separately sold. Requests for bids on items offered for sale shall be made by the official in charge. In requesting bids, the official in charge shall announce the item, its identification number, and a brief description of the item or lot. The right to reject all such bids for a lot or item shall be reserved in the terms of sale; and when the Invitation for Bids so specifies, lots or items for which all bids have been rejected may be reoffered at the same sale in order to secure an acceptable bid price. After examining all bids, award shall be made or bids rejected immediately following the offering of the item or lot. The bids at spot bid sales shall not be disclosed prior to the announcement of award for any item or lot. Where mailed written or drop bids are permitted, they shall not be disclosed to the public prior to the announcement of award. Bidders may be required to register in advance of the sale. Any special condition of sale shall be set out in the Invitation for Bids in order to assure that all bidders are afforded an opportunity to compete on the same terms and conditions.

(c) *Auction sales.* When the terms and conditions of sale have been published and distributed to participating buyers, any special or unusual conditions of sale shall be announced by the person conducting the auction, immediately prior to commencement of the sale. Offerings must reserve in the Government, the right to accept or reject any or all bids. Lots for which all offers have been rejected may be reoffered later at the same sale to secure acceptable bids, when the published terms and conditions so provide.

§ 101-45.304-2 Negotiated sales and negotiated sales at fixed prices.

(a) *Circumstances permitting negotiated sales.* While it is the policy to sell property after publicly advertising for bids, property also may be sold by negotiation, subject to obtaining such competition as is feasible under the circumstances, where:

(1) It is determined by the agency that the sale involves property:

(i) That has an estimated fair-market value not in excess of $1,000;

(ii) Where public exigency will not admit of the delay incident to advertising;

(iii) Where bid prices after advertising therefor are not reasonable (either as to all or some part of the property), or bid prices have not been independently arrived at in open competition, and it is determined that readvertising will serve no useful purpose: *Provided,* That all responsible bidders who responded to the previous advertising shall be afforded an opportunity to submit offers for the property; or

(iv) That the disposal will be to a State, territory, possession, political subdivision thereof, or tax-supported agency therein, and that the estimated fair market value of the property and other satisfactory terms of disposal are obtained by negotiation. (See § 101-45.304-12.)

(2) Full and adequate justification therefor has been submitted to the head of the selling agency or his designee for prior approval, and he has determined:

(i) That the public health, safety, or national security will thereby be promoted; or

(ii) That it is necessary in the public interest during the period of a national emergency declared by the President or the Congress. The authority of this subdivision shall be used only with respect to a particular lot or lots of personal property identified by the Administrator of General Services or a specifically described category or categories of property determined by the Administrator of General Services during any period fixed by the Administrator of General Services, but not in excess of three months. Declaration of a national emergency alone is not justification for use of this authority; there must be other reasons making use of negotiation necessary in the public interest.

(3) Full and adequate justification therefor has been submitted to the Administrator of General Services for his prior approval, and he has determined that the property involved is of a nature and quantity which, if disposed of by advertising would cause such an impact on an industry or industries as to adversely affect the national economy: *Provided,* That the estimated fair market value of such property and other satisfactory terms of disposal can be obtained by negotiation.

(4) Negotiation is otherwise authorized by the Act or other law.

(b) *Negotiated sale at fixed prices.* Property may be sold at fixed prices, either directly or through the use of disposal contractors, only with prior approval of the Administrator of General Services or his designee.

(c) *Explanatory statements.* Subject to the exceptions stated in § 101-45.304-2(c)(2), the selling agency shall prepare an explanatory statement as required by section 203(e)(6) of the Act of the circumstances of each proposed disposal by negotiation.

(1) Ten copies of each explanatory statement, mechanically reproduced, shall be submitted to the Administrator of General Services for review and transmittal by the Administrator to the appropriate committees of the Senate and House of Representatives and a copy thereof shall be preserved in the files of the selling agency. Such statements shall be submitted as early as practicable in advance of each proposal. Copies of the Administrator's transmittal letters to the committees will be furnished to the selling agency. In the absence of any action by a committee on the proposed negotiated disposal, the selling agency may consummate the sale on or after 35 days from the date of the Administrator's letters transmitting the explanatory statement to the committees.

(2) The explanatory statement need not be:

(i) Transmitted for a disposal of personal property at fixed prices when previously authorized pursuant to § 101-45.304-2(b);

(ii) Transmitted for a disposal of personal property authorized to be made without advertising by any provision of law other than section 203(e) of the Act; or

(iii) Prepared for a disposal of personal property having a fair market value of $1,000 or less.

(3) An outline for the preparation of the explanatory statement is shown in § 101-45.4806.

[30 FR 2930, Mar. 6, 1965, as amended at 31 FR 5001, Mar. 26, 1966; 34 FR 7329, May 6, 1969; 42 FR 40853, Aug. 12, 1977]

§ 101-45.304-3 Small lot sales.

When holding agencies elect to sell small lots of personal property or perishable items as authorized under § 101-45.105-3, the following forms shall be used:

(a) Optional Form 15, poster, Sale of Government Property. This dual-purpose form (see § 101-45.4903-15) may be used as a direct sales announcement or as a poster to be displayed in prominent locations in public buildings. It requires only fill-in data to indicate the selling agency, sales location, time of sale, and type of property. When the form is used as a sales announcement, it may be either mailed in an envelope or the mailing data may be printed on the reverse side. The posting of the form or mailing of the announcement should be made in advance of the proposed sale. The period of time between posting or mailing the announcement will vary according to the type and quantity of property being offered. A 7-day period usually is adequate.

(b) Optional Form 16, Sales Slip, Sale of Government Personal Property. This four-part form (see § 101-45.4903-16) is provided for simple documentation of sales and is similar to cash sales slips used in over-the-counter sales in private retail stores. The form functions as an invoice, cash receipt, permanent account record, or property release document as required by individual agency procedures. It may be used to record over-the-phone quotations in the case of negotiated sales.

[45 FR 38369, June 9, 1980]

§ 101-45.304-4 Lotting.

To the extent practicable, and consistent with the types of property and usual commercial practice, property offered for sale shall be assembled in reasonably sized lots of like or similar items by make or manufacturer. Unused property shall be lotted separately from used items. Scrap and other property having scrap value only shall be lotted in accordance with established trade practice and shall generally not be included in the same sale with usable items. Determination of the size of lots shall take into consideration the buying capacities of prospective buyers and the requirement that adequate competition be obtained. Large quantities of identical items shall be lotted in such a way as to encourage bidding by small businesses and individuals.

§ 101-45.304-5 Inspection by bidders.

Sufficient time prior to the date for submission of bids shall be allowed to permit inspection by potential bidders. Such time should be a minimum of 7 or a maximum of 21 calendar days, depending upon the circumstances of the sale, the method of the sale, or the volume of property offered for sale. Whenever the inspection period is proposed to be less than 7 days, invitations for bids, flyers, or other announcements shall be distributed to prospective bidders sufficiently in advance of the inspection period.

[31 FR 5001, Mar. 26, 1966]

§ 101-45.304-6 Reviewing authority.

Approval by a reviewing authority of the agency effecting the sale shall be required for each proposed award involving the type of sale and acquisition cost (actual or estimated) of property other than scrap as follows:

(a) By negotiated sale—$1,000 or more.

(b) By competitive-bid sale—$100,000 or more.

§ 101-45.304-7 Advertising.

Adequate public notice shall be given to each offering for sale of property to be disposed of after advertising. Except where the nature or condition of the property does not permit, advertising shall be made in sufficient time previous to sale to permit full and free competition. The extent of solicitation shall have due regard to the quantity and type of property to be sold, the logical market of disposal, the type of sale contemplated, and the public interest.

(a) *Advertising media by type of sales*—(1) *Sealed bid sales.* In the case of sealed bid sales, advertising shall be by the distribution of written invitations for bids including public posting thereof and may be supplemented by newspaper or trade journal advertising (ordered in accordance with existing law) where advisable.

(2) *Spot bid sales.* Advertising in the case of spot bid sales shall be by written invitation for bids or other appropriate notices, including public posting thereof. Notice of such sales may also be given by appropriate newspaper or trade journal advertising (ordered in accordance with existing law) where advisable.

(3) *Auction sales.* In the case of auction sales, newspaper or trade journal advertising ordinarily should be employed (ordered in accordance with existing law) in addition to other written notice deemed appropriate.

(4) *Small lot sales.* Advertising in the case of small lot sales of property at isolated locations shall be limited to public posting or mailing of the Optional Form 15.

(b) *Advance sale notices to Department of Commerce.* In order that the Department of Commerce may publish regularly synopsis of principal proposed sales of Government personal property, the sales office shall, when the acquisition cost of the property to be sold at one time at one place is $250,000 or more, forward a notice of each proposed sale to the U.S. Department of Commerce, Room 1300, 433 West Van Buren Street, Chicago, IL 60607. Where the acquisition cost is less than this amount, the notice may be transmitted when considered desirable. The notice shall be sent as early as possible in advance of the sale but at least 20 days prior to the date when the bids will be opened, or, in the case of spot bid or auction sale, when the sale will be conducted. The notice shall be transmitted by fastest mail available and shall be in synopsis form suitable for printing directly from the text as transmitted without editing or condensing. Instructions for the preparation of advance sale notices, including form and content thereof are set forth in § 101-45.4910. The failure to comply with the advance notice of sale requirements of this § 101-45.304-7(b) shall not, in and of itself, affect the validity of a sales award which is otherwise valid.

(c) The appropriate GSA regional office shall be provided, at the time of public distribution, a copy of each invitation for bids or other form of offering involving:

(1) Contractor inventory, whether being sold by the contractor for the Government or by a Government activity authorized to conduct sales.

(2) Small lots at isolated locations, perishables, etc., being sold pursuant to an authorization from a GSA regional office pursuant to § 101-45.105-3.

[30 FR 2930, Mar. 6, 1965, as amended at 42 FR 40853, Aug. 12, 1977]

§ 101-45.304-8 Forms prescribed.

Standard Forms 114, 114A, 114B, 114C, 114C-1, 114C-2, 114C-3, 114C-4, 114D, 114E, and 114F (illustrated at §§ 101-45.4901-114 through 101-45.4901-114F) shall be used, where appropriate, in sales of personal property except that Standard Form 114C is not applicable to those sales conducted by GSA involving any strategic metals, minerals, and ores, which have been determined surplus pursuant to the Act. These forms will be stocked by GSA as cut sheets only. Authority for the use of such forms in styles other than cut sheets may be granted when requests for such deviation are submitted in accordance with § 101-26.302.

(a) *Deviation.* In the interest of establishing and maintaining uniformity in Government sales contracts, no deviation shall be made from the Standard Form 114 series, and no special conditions of sales shall be included which are inconsistent with the provisions contained therein, unless approval is obtained from the Commissioner, Federal Supply Service, General Services Administration, Washington, D.C. 20406.

(b) *Cover sheet.* The development and use of a cover sheet will be at the option of the selling agencies. However, if a cover sheet is used, it should be developed so as to be uniform for and identified primarily with the selling agency and secondarily with the selling activities of such agency. The cover sheet should contain only the "what-where-when" types of information, such as the method of sale (i.e., sealed bid, spot bid, auction); sale (invitation for bids) number; general category(ies) of property being offered; identification of the selling activity; inspection period; and the bid opening time and date of the sale. Nothing of a binding nature either on the part of the bidder or the Government shall be included on this cover sheet.

(c) *Description of standard forms*—(1) *Standard Form 114, Sale of Government Property—Bid and Award.* (i) Standard Form 114, has spaces to be completed by the issuing sales activity and the bidder. Some of the information furnished by the issuing sales activity is as follows: Invitation for bids number; name and address of issuing sales activity; person to contact for sales information; address to which bids should be mailed; place, date, and time of bid opening; whether or not bid deposit is required; and the number of days for payment to be made and property to be removed. In addition, the form provides that the Standard Form 114C, General Sale Terms and Conditions, and the standard form of special conditions applicable to the method of sale being employed are made a part of the invitation for bids by reference. The block indicating the standard form of special conditions for the appropriate method of sale must be checked by the issuing sales agency. If special terms and conditions in addition to those contained in the prescribed standard forms are to be made a part of the invitation by reference, such additional terms and conditions should be identified by a form number and so indicated in the appropriate place on Standard Form 114. Special terms and conditions that are not identified by a form number must be included in the invitation and not made a part thereof by reference. Standard Form 114C and the applicable standard form of special conditions may be attached to the invitation for bids at the option of the executive agency. Information to be furnished by the bidder is as follows: Number of days but not less than 10, for Government's acceptance of the bid, if desired; total amount of bids; amount and form of bid deposit, when required; whether or not property was inspected; small business representation; and contingent fee representation. Standard Form 114 shall be made a part of sealed bid sales and may be used in auction and spot bid sales.

(ii) The time set for bid opening or commencement of a sale shall be the local time at the place of bid opening or sale and shall be indicated in the appropriate block on Standard Form 114. The opening time shall include the phrase "local time at the place of bid opening" in lieu of references to "daylight time" or "daylight saving time" and abbreviations such as "EDT" or "PDT." Where the block on Standard Form 114 does not readily permit the inclusion of the phrase "local time at the place of bid opening," an asterisk shall be used to call attention to an explanatory phrase which shall be stated elsewhere in the invitation for bids. The time set for commencement of spot bid and auction sales shall also be the local time at the place of sale and shall be indicated in an appropriate place in invitations for bids and sales offerings.

(2) *Standard Form 114A, Sale of Government Property—Item Bid Page—Sealed Bid.* Standard Form 114A requires entries to be made by the bidder prior to submission of bid. It provides for the bidder to enter the item number of the property on which he is bidding, his offered unit price bid per item, and his total price bid per item. Except as provided in subparagraph (3) of this paragraph, Standard Form 114A shall be made a part of sealed bid sales.

(3) *Standard Form 114B, Sale of Government Property—Item Bid Page—Sealed Bid.* Standard Form 114B may be used in lieu of Standard form 114A only when:

(i) The number of items of property being sold can be described sufficiently on one page;

(ii) Property is offered on an "as generated" basis (term-type sale);

(iii) Bidding on an increment basis is permitted by the terms and conditions of the sale; or

(iv) The use of Standard Form 114A might not be appropriate, in which case a short, accurate, and to the extent feasible, commercially clear description shall be prepared for each item offered for sale.

(4) *Standard Form 114C, Sale of Government Property—General Sale Terms and Conditions.* Standard Form 114C, is applicable to all sales of personal property (including sales by negotiation) and shall be made a part of all sales invitations, either by reference or by attachment thereto or both.

(5) *Standard Form 114C-1, Sale of Government Property—Special Sealed Bid Conditions.* Standard Form 114C-1, is in addition to the Standard Form 114C and is applicable only to sealed bid sales (other than term-type sales) and shall be made a part of all such sales invitations, either by reference or by attachment thereto or both.

(6) *Standard Form 114C-2, Sale of Government Property—Special Sealed Bid-Term Conditions.* Standard Form 114C-2, is applicable only to sealed bid term-type sales and is in addition to the Standard Form 114C. The form shall be made a part of all such sales invitations, either by reference or by attachment thereto, or both.

(7) *Standard Form 114C-3, Sale of Government Property—Special Spot Bid Conditions.* Standard Form 114C-3, is applicable only to spot bid sales and is in addition to the Standard Form 114C. The form shall be made a part of all sales announcements, bidders registers, and bid cards, either by reference or by attachment thereto or both.

(8) *Standard Form 114C-4, Sale of Government Property—Special Auction Conditions.* Standard Form 114C-4, is applicable only to auction sales and is in addition to the Standard Form 114C. The form shall be made a part of all sales announcements and bidders registers, either by reference or by attachment thereto or both.

(d) *Other special conditions.* (1) Other special terms and conditions considered by a selling agency to be necessary for the particular property offered for sale and not inconsistent with those contained in the forms prescribed in this § 101-45.304-8 may be incorporated in invitations for bids in which these forms are used. Such additional terms and conditions should be kept to an absolute minimum. To the extent practicable, incorporation of such special conditions should be accomplished by a special form developed by the selling agency for that purpose and so indicated on Standard Form 114, Sale of Government Property-Bid and Award. Each selling agency shall review periodically such terms and conditions which are in common use in its agency with a view to standardization of those in general use and elimination of unnecessary additions. The agency shall, from time to time, forward to the Commissioner, Federal Supply Service, General Services Administration, Washington, DC 20406, such additional terms and conditions desirable for inclusion in the standard forms.

(2) Standard Form 114, Sale of Government Property—Bid and Award, incorporates by reference Standard Form 114C and Standard Forms 114C-1 and 114C-2, as appropriate. Therefore, it is not necessary to attach such forms each time invitations for bids are issued, but an agency may elect to do so. It is essential, however, that any terms and conditions incorporated in an invitation by reference be furnished to any prospective bidder promptly on request.

(e) *Standard Form 114D, Sale of Government Property—Amendment of Invitation for Bids/Modification of Contract.* Standard Form 114D, is applicable to all sales of personal property and shall be used as required.

(1) *Amendment.* (i) If after issuance of an invitation for bids, but before the time set for opening of bids or the start of a sale, it becomes necessary to make changes to the invitation, the changes shall be accomplished by the issuance of an amendment to the invitation for bids on Standard Form 114D. The amendment shall be sent to each firm or individual to whom the invitation for bids has been furnished and shall be displayed in the bid room. In the event an amendment must be issued to either an auction or spot bid

invitation for bids in which mailed-in bids are not authorized and where time does not permit distribution by mail, such amendment may be issued at the time of bidder registration.

(ii) When an invitation is canceled, bids which have been received shall be returned unopened to the bidders and a notice of cancellation sent to all prospective bidders to whom invitations for bids were issued identifying the invitation and briefly explaining the reason for the cancellation.

(2) *Supplemental agreement.* A supplemental agreement is required for a contract modification which, in accordance with the contractual provisions, cannot be accomplished by unilateral action of the Government. Such supplemental agreement must be mutually agreed to by both parties and be distributed in the same manner as the original contract. Modifications to contracts require careful consideration before issuance and the sales contracting officer should be absolutely certain that the information contained in the supplemental agreement is accurate. In addition, the sales contracting officer must satisfy himself that the contract modification is authorized and that as a result of the contract modification, the purchaser will enjoy no advantage or gain which is uncompensated, or which would not reasonably flow from the terms and conditions of the invitation for bids or the solicitation of offers out of which the original contract arose.

(f) *Standard Form 114E, Sale of Government Property—Negotiated Sales Contract.* Standard Form 114E, is applicable only to negotiated sales and is used to confirm quotations received from offerors contracted by the selling activity and constitutes the sales contract upon execution by the purchaser and by the Government. Standard Form 114E shall have attached thereto or made a part thereof by reference, Standard Form 114C, General Sale Terms and Conditions, and those additional special terms and conditions applicable only to the specific negotiation concerned.

(g) *Standard Form 114F, Sale of Government Property—Item Bid Page—Spot Bid or Auction.* Standard Form 114F, is used only when mailed-in bids are authorized in connection with a spot bid or auction sale.

(h) *Description of property for sale.* The invitation for bids shall include a listing of the property being offered for sale and each unit or line item shall be assigned a specific item number. The property should be adequately described including all factual information necessary to convey to prospective bidders an accurate, concise, and clear understanding of the property being offered. To the extent applicable, the following guideline information should be included as a part of the description:

(1) Noun name and other descriptive information expressed in understandable commercial terms.

(2) Part numbers and pertinent specifications as to sizes, type, etc.

(3) Manufacturers' name or trade name and year of manufacture.

(4) Estimated total weight or cube.

(5) Condition of property limited generally to statements of fact such as "unused" or "used." To these general statements there may be added, when known and applicable, information such as "parts missing," "wrecked," "major components removed," etc.

(6) Quantity stated in the same unit of measure as that for which bids are solicited (each, pound, ton, per lot, etc.), such units to conform with established trade practices in the industry or commodity area in which the property falls.

(7) Original acquisition cost, if known, or estimated cost (and so indicated) may be included.

(8) Location of the property; dates and time available for inspection; and name, title, and telephone number of custodian.

(i) *Removal of property.* A reasonable period of time shall be afforded successful purchasers to effect complete removal of the property and must be set forth in the invitation for bids.

[35 FR 12119, July 29, 1970, as amended at 39 FR 44756, Dec. 27, 1974; 42 FR 40853, Aug. 12, 1977]

§ 101-45.304-9 Credit.

Except as authorized in § 101-45.304-12, personal property shall not be offered for sale or sold on credit without the prior approval of the Administrator of General Services or his designee. When approved, the terms and conditions of sale shall specifically provide therefor.

§ 101-45.304-10 Deposits and final payments.

(a) Whenever a bid deposit is required by the terms and conditions of the invitation for bids, the normal deposit for individual type sales shall be 20 percent of the total amount of the bid. For sales of property on an "as generated" basis during a stated period of time (referred to as term contracts), the normal deposit shall not be less than an amount which will adequately protect the Government's interest, normally 20 percent of the estimated contract price. However, the bid deposit for a term contract in excess of 1 year's duration shall not exceed 20 percent of the total price estimated for 1 year's removal of property.

(b) Whenever a bid deposit is required by the terms and conditions of the invitation for bids, such deposit shall be in U.S. currency or any form of credit instrument other than a promissory note, made payable on demand in U.S. currency, except as provided for in condition number 4 of Standard Form 114C, General Sales Terms and Conditions. Postdated credit instruments are not acceptable. Deposit bonds submitted on Standard Forms 150 and 151 (illustrated in §§ 101-45.4901-50 and 101-45.4901-151) may also be accepted when provided for in the invitation for bids.

(c) Irrevocable commercial letters of credit issued by a bank established in the United States, payable to the Treasurer of the United States or to the Government agency conducting the sale, may be used in lieu of the foregoing forms of deposit. Such letters shall be substantially in the format shown in § 101-45.4802. General instructions relating to the preparation of letters of credit are also contained in § 101-45.4803.

(d) Any draft drawn against such letter of credit shall be substantially in the format shown in § 101-45.4804. The draft shall be accompanied by a transmittal letter and certification substantially in the format shown in § 101-45.4805.

(e) Final payments shall be acceptable in the same forms as for bid deposits, with the exception of deposit bonds.

(f) Potential buyers shall be notified as to the exact organizational entity to the order of which the prescribed form of deposit is to be made payable. In no event shall a bid be rejected solely on the grounds that the instrument of deposit is made payable to the Treasurer of the United States when the offering specifies that it be made payable to the Government agency conducting the sale, or conversely, as the case may be.

[30 FR 2930, Mar. 6, 1965, as amended at 35 FR 12121, July 29, 1970; 42 FR 40854, Aug. 12, 1977]

§ 101-45.304-11 Deposit bonds.

(a) *Standard forms.* The following standard forms, as applicable, shall be used when a bond, in lieu of cash or other acceptable form of bid deposit, is permitted by the sales invitation.

(1) Standard Form 150, Deposit Bond—Individual Invitation, Sale of Government Personal Property. (See § 101-45.4901-150.)

(2) Standard Form 151, Deposit Bond—Annual, Sale of Government Personal Property. (See § 101-45.4901-151.)

(3) Standard Form 28, Affidavit of Individual Surety. (See § 101-45.4901-28.)

(b) *Instructions and procedures.* (1) Comprehensive instructions for the execution and use of Standard Form 150, Deposit Bond—Individual Invitation; Standard Form 151, Deposit Bond—Annual; and Standard Form 28, Affidavit of Individual Surety, are provided on the reverse of each form. Implementing instructions shall be consistent therewith.

(2) Standard Form 151, Deposit Bond—Annual, contains the following provision:

> Upon the making of an award to the principal, or within a reasonable period of time thereafter, the Government shall transmit, in writing, the following information to the surety at the above address:

(i) Name and address of the principal(s); (ii) number of the invitation for bids; (iii) name and address of the department or agency making the award; (iv) date of the award; and (v) total purchase price covered by the award. The phrase, "or within a reasonable period of time thereafter", shall, for practicable purposes, be construed to mean within 15 days following the making of the award. Optional Form 20, Notice to Surety—Deposit Bond—Annual (illustrated at § 101-45.4903-20) is a form of written notice available for this purpose.

(3) In the event a bidder whose bid deposit is secured by a deposit bond attempts to withdraw his bid in violation of paragraph 3, General Sale Terms and Conditions, Standard Form 114C, and such bid is determined to be the high bid acceptable to the Government, a formal notice of award shall be issued to inform the bidder of his contractual obligations.

(4) In the event of default by a bidder whose bid deposit has been secured by a deposit bond, a notice of such default should be sent to the bidder (principal) and the surety.

[30 FR 2930, Mar. 6, 1965, as amended at; 42 FR 40854, Aug. 12, 1977]

§ 101-45.304-12 Sales to State and local governments.

(a) *General.* (1) State and local governments may purchase Government personal property by negotiation as prescribed in this § 101-45.304-12, or they may participate in public sales of Government personal property on a competitive bid basis by having their names maintained on executive agencies' mailing lists.

(2) When sales are made to State and local governments, either by competitive bid or by negotiation, the requirements for bid deposit and for payment for property prior to removal shall be waived.

(b) *Definitions.* The following terms have the meaning set forth in this § 101-45.304-12:

(1) *Estimated fair market value or reasonable value.* The selling agency's best estimate of what the property would be sold for if offered for public sale on a competitive bid basis.

(2) *Selling agency.* An executive agency, through its subordinate selling activities, responsible for conducting sales of Government personal property.

(3) *State and local governments.* A State, territory, possession, political subdivision thereof, or tax-supported agency therein.

(4) *Want list.* A list of items desired to be purchased by State and local governments when available, which is maintained by selling agencies and is compiled from requests submitted by State and local governments.

(c) *Negotiation.* Personal property may be sold by negotiation to State and local governments, subject to obtaining such competition as is feasible under the circumstances; provided, that the estimated fair market value of the property and other satisfactory terms of disposal are obtained. (See §§ 101-45.304-2(a)(1)(iv) and 101-46.403(b)(1).)

(d) *Requests to purchase.* (1) With the exception of items having an estimated fair market value of less than $25, selling agencies shall honor requests by State and local governments to purchase property by negotiation prior to offering the property for public sale on a competitive bid basis.

(2) When a request is received to purchase property that is available, appropriate action shall be taken by the selling agency to notify such State or local government that the property is available for sale and, when appropriate, consummate the contract in accordance with § 101-45.304-12(e).

(3) To provide for those instances in which property desired by a State or local government may not be available for sale at the time the request is received, selling agencies shall:

(i) Establish a "want list" system to reflect such needs to be screened against future availability;

(ii) To the extent that sufficient information is not included in the initial request, require the interested State or local government to provide such information including but not necessarily limited to the following and with only one type of property to be listed on each specific request:

(*a*) Name, title, address, and telephone number of official person(s) to contact who would be authorized to negotiate contracts;

(*b*) Geographical area(s) within which they would be willing to inspect and purchase property;

(*c*) Specific and complete description of the item(s) desired, such as manual or electric typewriter, not a broad category of office equipment; sedan, station wagon, 2½-ton truck, or dump truck, not vehicular equipment; grader, tractor, or lift machine, not construction or road equipment;

(*d*) Number of days the request should remain on file pending availability of the property, not to exceed 60 days; and

(*e*) Minimum poorest acceptable condition of the property, i.e., good, usable without repairs; fair, repairable; poor, extensive repairs required.

(iii) Request such other pertinent information from the State and local government as deemed necessary; and

(iv) Screen property reported for sales purposes against established want lists.

(4) Property listed on an invitation for bids and already offered to the general public at the time a request is received will not be withdrawn for negotiation purposes under this § 101-45.304-12.

(e) *Procedures in negotiating sales.* (1) When a desired item is available or becomes available for sale, the interested State or local government shall be advised of:

(i) The complete description;

(ii) Its condition, if known;

(iii) Its location and full information concerning inspection; and

(iv) The estimated fair market value or reasonable value when only one State or local government is involved.

(2) Sales by negotiation are subject to obtaining such competition as is feasible under the circumstances. When two or more State and local governments have indicated a desire to purchase the same item, quotations should be obtained from such interested purchasers. When only one State or local government desires to purchase property and no further competition is feasible under the circumstances and all other conditions for negotiation have been met, the sale may be made.

(3) A reasonable period of time not to exceed 10 days shall be given the State or local government to indicate its interest in purchasing the property.

(4) Satisfactory arrangements must be made with the State or local government regarding payment, pickup, handling, and transportation charges, where necessary.

(f) *Want lists.* Executive agencies shall provide:

(1) Uniform standards of specific information to be recorded in the want list file, such as, date request is received, date record will be purged if no action is taken, minimum acceptable conditions of property, dates of screening against availability, dates of referrals to interested purchasers, inspections of items, complete information for contacting officials in the State and local governments, and contacts undertaken;

(2) A uniform system of controlling and recording actions taken on the want list; and

(3) Instructions to their selling activities for notifying State and local governments when a particular item of property is available and for notifying them that the property will be frozen only for a specific length of time, taking into account a reasonable time for inspecting the property and completing negotiations.

[34 FR 7329, May 6, 1969]

§ 101-45.305 [Reserved]

§ 101-45.306 Contractor inventory.

Except for retention of contractor inventory where authorized by the terms of the contracts, and after compliance with the applicable requirements of § 101-43.316, contractor inventory shall be sold in the same manner as surplus personal property.

§ 101-45.307 Proceeds from sales.

Section 201(c) of the Act, authorizes any executive agency to apply the proceeds from sale of exchange/sale property in whole or in part payment for similar items acquired for replacement purposes. Section 204(a) of the Act requires, except in certain specified instances, that proceeds from sale of surplus personal property shall be covered into the Treasury as miscellaneous receipts. The exceptions are where property sold was originally acquired by funds not appropriated from the general fund of the Treasury, or appropriated therefrom and by law reimbursable from assessments, taxes, or other revenues; and where any contract entered in to by any executive agency or any subcontract under such contract authorizes the proceeds of any sale of contractor inventory to be credited to the price or cost of the work covered by such contract or subcontract. In these cases, the gross proceeds from the sale of such property will be deposited by the selling agency or by contractor or subcontractor to the reimbursable fund or appropriation or paid to the Federal agency accountable for the property. In all other cases, the gross proceeds from the sale of property will be deposited by the selling agency to the Treasury as miscellaneous receipts. Therefore, it is essential that the Standard Form 120, Report of Excess Personal Property, or Standard Form 126, Report of Personal Property for Sale, be properly completed to identify the appropriate appropriation or fund symbol, title, and station deposit symbol or station account number, or other manner in which payment is desired.

[31 FR 5001, Mar. 26, 1966]

§ 101-45.308 [Reserved]

§ 101-45.309 Special classes of property.

§ 101-45.309-1 Agricultural commodities.

(a) *Disposal by holding agencies.* Surplus agricultural commodities, surplus foods processed from agricultural commodities, and surplus cotton or woolen goods may be disposed of in accordance with this Part 101-45, without reference to the Department of Agriculture, in the following instances:

(1) Where the quantity of such commodity or product in any one location has an acquisition cost not in excess of $5,000.

(2) Where such commodity or product must be disposed of immediately to prevent spoilage.

(3) Where the quantity to be sold during any month has an acquisition cost not in excess of:

(i) Raw cotton, wheat and other grains, flour, leaf tobacco, and cotton or woolen goods—$300,000.

(ii) Meat, poultry and poultry products, peanuts, and other fats and oils—$50,000.

(iii) All other agricultural commodities and foods processed from agricultural commodities—$25,000.

(b) *Required references to the Department of Agriculture.* With respect to quantities of surplus agricultural commodities, surplus foods processed from agricultural commodities, and surplus cotton or woolen goods, in excess of the amounts specified in this § 101-45.309-1, holding agencies shall obtain and Conservation Service, Department of Agriculture:

(1) A determination, with appropriate instructions, that the commodities or products should be transferred to the Department of Agriculture for disposition as provided by section 203(h) of the Act. Holding agencies accordingly may execute transfers without charge to the Department of Agriculture; or

(2) A statement setting forth the conditions and prices which should be used in the disposition of the commodities or products.

[30 FR 2930, Mar. 6, 1965, as amended at 43 FR 26579, June 21, 1978]

§ 101-45.309-2 Dangerous property.

(a) *General.* No property shall be disposed of that is dangerous to public health or safety without rendering innocuous such property or providing adequate safeguards therefor.

(b) *Explosives.* For the purpose of this section, the term "explosive" means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. The term includes, but is not limited to, dynamite and other high explosives, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, igniters, and any other items appearing in the Explosives List promulgated by the Secretary of the Treasury (18 U.S.C. 841(d)). The Explosives List is published and revised at least annually in the FEDERAL REGISTER by the Director, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, pursuant to 27 CFR 181.23. The following procedures shall apply in any disposal of explosives:

(1) All materials of the above classifications offered for sale shall be properly identified in the offering with respect to their hazardous characteristics.

(2) All the materials of the above classifications shall be labeled by the holding agency prior to shipment so that their hazardous character will be immediately evident upon inspection.

(3) Purchasers of materials of the above classification shall be required by the sales offering to execute the following certification:

> It is hereby certified that the purchaser will comply with all applicable Federal, State, and local laws, ordinances and regulations with respect to the care, handling, storage and shipment, resale, export, and other use of the materials, hereby purchased, and that he is a user of, or dealer in, said materials capable of complying with all applicable Federal, State, and local laws. This certification is made in accordance with and subject to the penalties of Title 18, Section 1001, the United States Code, Crime and Criminal Procedures.

(c) *Ammunition components.* The term "ammunition components" means ammunition or cartridge cases, primers, bullets, or propellent powder designed for use in any firearm.

(1) *Usable ammunition components.* Ammunition components sold as usable property fall under the Gun Control Act of 1968, which requires that purchasers be licensed to handle such property. So that bidders will be notified of the special requirements concerning the purchase and transportation of usable ammunition components, the following statements shall be included in the invitation for bid and shall be made a part of the contract by including in it the bid form to be submitted by the bidder:

(i) Item No. ——— containing ammunition components offered for sale in this invitation is subject to the requirements of the Gun Control Act of 1968 (18 U.S.C. 921 et seq.) and any regulations issued pursuant to such act. The undersigned represents, warrants, and certifies that he will comply with such act and all other applicable local, State, and Federal laws and regulations. His license(s) number(s) is/are ———.

(ii) The transportation of hazardous materials (primers or propellent powder) is governed by the Hazardous Materials Regulations (49 CFR Parts 170-189) promulgated by the Department of Transportation. Purchasers of such materials are responsible to certify, based on their own examination, that the materials are properly classified, described, packaged, marked, and labeled and are in proper condition for transportation in accordance with the Hazardous Materials Regulations. Hazardous materials sold by the Department of Defense (DOD) in packings not marked in accordance with the Hazardous Materials Regulations may be shipped from DOD installations, provided DOD certifies that the packing is equal to or greater in strength and efficiency than the packing prescribed in the above regulations.

(2) *Scrap ammunition components.* Ammunition components not usable or suitable for reuse as components of ammunition which are reported and sold as scrap (for basic material content) do not fall under the Gun Control Act of 1968. With regard to the sale of ammunition components as scrap, the following statement shall be included in the invitation for bid and shall be made a part of the contract:

> I, , certify that ammunition components purchased by me as Item No. ——— will not be used for the original manufactured purpose.

[30 FR 2930, Mar. 6, 1965, as amended at 41 FR 5097, Feb. 4, 1976]

§ 101-45.309-3 Demilitarization and decontamination.

(a) Dangerous material shall not be disposed of pursuant to this Part 101-45 without first being demilitarized or decontaminated when a duly authorized official of the executive agency concerned determines this action to be in the interest of public health, safety, or security. This may include rendering the property innocuous, stripping from it any confidential or secret characteristics, or otherwise making it unfit for futher use.

(b) Demilitarization or decontamination of property to be donated to public bodies pursuant to Subpart 101-44.7 shall be accomplished in a manner so as to preserve so far as possible any civilian utility or commercial value of the property.

(c) Except for those sales otherwise authorized by § 101-45.309-2 or other statutes, and for specialized sales authorized by the Secretary of Defense, U.S. Munitions List items identified as requiring demilitarization shall not be reported for public sale without first being demilitarized or requiring demilitarization to be a part of the terms and conditions of sale. GSA may refer technical questions on demilitarization to the Department of Defense for advice.

[44 FR 27393, May 10, 1979]

§ 101-45.309-4 Firearms.

Firearms may be disposed of at public sale only for scrap after total destruction by crushing, cutting, breaking, or deforming to be performed in a manner to assure that the firearms are rendered completely inoperative and to preclude their being made operative.

§ 101-45.309-5 Garbage.

All invitations to bid for removal of garbage from property occupied or controlled by the Federal Government, unless specifically requiring destruction by incineration, shall state that all bidders must comply with basic requirements for sterilization prescribed by the Animal Disease Eradication Division, Bureau of Animal Industry, Department of Agriculture. In the interest of uniformity, the following provision shall be included in all invitations to bid where garbage collected may, under any circumstances, be fed to livestock or poultry:

> Prior to award the bidder agrees to furnish a certification from an Animal Disease Eradication Division representative of the U.S. Department of Agriculture, that he possesses adequate and approved garbage sterilization equipment. In the event of an acceptance of his bid by the Government, the bidder warrants that all garbage received under the contract will be sterilized not less than 30 minutes at 212° F. before being fed to livestock or poultry. The bidder agrees to permit representatives of the Animal Disease Eradication Division of the U.S. Department of Agriculture to make inspections at any time without prior arrangements to determine that the garbage is heat treated in accordance with the provision.

§ 101-45.309-6 Controlled substances.

Surplus controlled substances (as defined in § 101-43.001-4) which are not required to be destroyed as provided in § 101-45.505 may be offered for sale by sealed bid in accordance with this Subpart 101-45.3 provided:

(a) The invitation for bids shall:

(1) Consist only of surplus controlled substances;

(2) Require the normal bid deposit prescribed in § 101-45.304-10;

(3) Be distributed only to bidders who are registered with the Drug Enforcement Administration, Department of Justice, to manufacture, distribute, or dispense the controlled substances for which the bid is being submitted; and

(4) Contain the following special condition of sale:

> The Bidder shall complete, sign, and return with his bid the certificate as contained in this invitation. No award will be made or sale consummated until after this agency has obtained from the Drug Enforcement Administration, Department of Justice, verification that the Bidder is registered to manufacture, distribute, or dispense those controlled substances which are the subject of the award.

(b) The following certification shall be made a part of the invitation for bids (and contract) to be completed and signed by the bidder and returned with the bid:

> The Bidder certifies that he is registered with the Drug Enforcement Administration, Department of Justice, as a manufacturer, distributor, or dispenser of the controlled substances for which bids are submitted and that the registration number is ——.

____
Name of bidder (print or type)

____
Signature of bidder

____
Address of bidder (print or type)

____
City State ZIP code.

(c) As a condition precedent to making an award for surplus controlled substances, the following shall be submitted to the Drug Enforcement Administration, Department of Justice, Washington, D.C. 20537:

(1) The name and address of the bidder(s) to whom an award is proposed to be made and the bidder(s) registration number(s);

(2) The name and address of both the holding activity and the selling activity;

(3) A description of the controlled substances, how those substances are packaged, and the quantity of substances proposed to be sold to the bidder;

(4) The identification of the invitation for bids by its number and time within which such bid(s) remains valid; and

(5) A request for advice as to whether the bidder is a registered manufacturer, distributor, or dispenser.

[38 FR 8059, Mar. 28, 1973, as amended at 39 FR 44756, Dec. 27, 1974; 41 FR 22273, June 2, 1976]

§ 101-45.309-7 Drugs, biologicals, and reagents other than controlled substances.

Surplus drugs, biologicals, and reagents other than controlled substances which are not required to be destroyed as provided in § 101-45.505 may be offered for sale by sealed bid in accordance with the provisions of this Subpart 101-45.3: *Provided*, That the following safeguards and instructions are observed to insure stability, potency, and suitability of the product and its labeling for use in civilian channels:

(a) Prior to reporting the surplus drugs, biologicals, and reagents to the selling agency pursuant to the provisions of § 101-45.303, holding agencies shall request that an examination be made by the Field Scientific Coordination Staff, ACFA-CF-30, located in the appropriate Food and Drug District Office, of surplus unexpired drugs and reagents, having an acquisition cost of $500 or more per manufacturers' lot/batch number.

(1) When requesting such an examination, FDA requires the submission of a list and one sample of each of the drugs to be examined.

(2) Additional samples may be requested if necessary for laboratory examination. Reimbursement for examination of the surplus drugs or reagents may be required by FDA. Before laboratory examinations are undertaken, FDA will give the inquiring agency an estimate of the expected costs. If, in accordance with Subpart 101-45.5, the cost of the quality assurance is not justified by the value of the material involved, the lot or lots may be destroyed.

(3) The reporting document prescribed in § 101-45.303(b) shall have attached thereto a copy of the letter received by the reporting agency from FDA stating that the articles offered have been reviewed and may appropriately be distributed or sold, subject when necessary to specified limitations.

(b) Surplus drugs, biologicals, and reagents normally shall not be physically transferred to the selling agency but should remain at the holding agency for precautionary and safety measures.

(c) Surplus drugs, biologicals, and reagents shall be sold only to those persons who are legally qualified to engage in the sale or distribution of such items.

(d) Sales of surplus drugs, biologicals, and reagents other than controlled substances shall be processed as follows:

(1) The invitation for bids shall:

(i) Consist only of surplus drugs, biologicals, and reagents;

(ii) Contain the expiration date of material being offered for sale;

(iii) Describe the composition of the material being offered for sale;

(iv) Require the normal bid deposit prescribed in § 101-45.304-10; and

(v) Contain the following special condition of sale:

The Bidder shall complete, sign, and return with his bid the certification as contained in this invitation. No award will be made or sale consummated until after this agency has determined that the Bidder is legally licensed to engage in the manufacture, sale, or distribution of drugs.

(2) The following certification shall be made a part of the invitation for bids (and contract), to be completed and signed by the bidder, and returned with the bid:

> The Bidder certifies that he is legally licensed to engage in the manufacture, sale, or distribution of drugs, and proof of his license to deal in such materials is furnished with this bid.
>
> ______________________________
> Name of bidder (print or type)
>
> ______________________________
> Signature of bidder
>
> ______________________________
> Address of bidder (print or type)
>
> ______________________________
> City State Zip Code

[35 FR 9281, June 13, 1970, as amended at 38 FR 8059, Mar. 28, 1973]

§ 101-45.309-8 Bedding and upholstered furniture.

(a) Requirements under State law placed on the purchase and resale of used bedding and upholstered furniture vary from State to State. Some of the restrictions are: (1) Requirement for sterilization and disinfection of used or second-hand bedding; (2) requirement for an annual license or registration fee as a supply dealer or renovator; (3) option of using stamps or a stamp exemption permit; and (4) requirement for the manufacturer's or vendor's name and address on the tag. Purchasers of Government surplus bedding and upholstered furniture normally are advised to comply with applicable State laws relating to the resale or reuse of such items.

(b) Procedures and instructions are provided herein for selling agencies to assist State health agencies by advising purchasers of surplus bedding and upholstered furniture to comply with State sanitation standards.

(c) The following terms have the meaning set forth in this § 101-45.309-8:

(1) *Bedding.* Any box spring, comforter, cushion, davenport, hammock pad, lounge, mattress, mattress pad, mattress protector, pillow, quilt, quilted pad, sleeping bag, sofa, studio couch, or upholstered spring bed used for sleeping, resting, or reclining purposes.

(2) *Upholstered furniture.* Any article of furniture, wholly or partially stuffed or filled with any concealed material, which is intended for use for sitting, resting, or reclining purposes.

(3) *Filling material.* African fibre, bamboo, cotton, down, excelsior, feathers, felted cotton, fibre, foam rubber, hair, husks, jute, kapok, Louisiana tree moss, sea moss, shoddy, wool, or any other soft material.

(d) Surplus bedding and upholstered furniture which are considered to be detrimental to public health or safety shall be destroyed in accordance with the provisions of Subpart 101-45.5.

(e) Surplus bedding and upholstered furniture will be sold in accordance with § 101-45.304 and this § 101-45.309-8.

(f) Sales of surplus bedding material and upholstered furniture shall be processed as follows:

(1) The invitation for bids shall include information advising purchasers of surplus bedding and upholstered furniture to comply with the State laws pertaining to sterilization, resale, and reuse of such items and filling materials as required by State laws.

(2) The invitation for bids shall contain a notice to bidders substantially as follows:

> *Mattresses, Bedding, or Upholstered Furniture.* For any mattresses, bedding, or upholstered furniture offered in this invitation, the purchaser is advised to procure and affix tags, labels, or stamps required by law or otherwise to comply with the State laws pertaining to sterilization, resale, and reuse of such items and filling material as required by State law.

(3) Selling agencies shall be required to provide the State health agency for the State in which a successful bidder maintains its business, with a written notice of such sale to include the name and address of the purchaser and the types, quantities, and locations of the articles sold. A copy of the award document or similar notification would serve the purpose.

(4) A list of State health agencies to receive information on sales of surplus

bedding and upholstered furniture is provided in § 101-45.4808.

[34 FR 8164, May 24, 1969, as amended at 42 FR 40854, Aug. 12, 1977]

§ 101-45.309-9 Gold.

(a) Gold will be sold in accordance with § 101-45.304 and this § 101-45.309-9.

(b) Sales of gold shall be processed to:

(1) Use the sealed bid method of sale;

(2) Require a 20 percent bid deposit;

(3) Certify all forms of bid deposit and payments; and

(4) Include in the invitation for bids only gold and such other precious and semiprecious materials as may be available for sale at that time.

(c) Each agency generating scrap gold and also having a continuing need for fine gold shall, instead of sale, arrange with a private refiner or the U.S. Assay Office in New York, as appropriate, for the acceptance of scrap gold in exchange for fine gold. Such exchanges will avoid the necessity of spending funds for the acquisition of fine gold. The exchange of scrap gold for fine gold at the U.S. Assay Office in New York will be based on the actual costs incurred by that office.

[40 FR 33216, Aug. 7, 1975]

§ 101-45.309-10 Safes and locking file cabinets.

Safes and locking file cabinets shall not be accepted for sale in a locked condition, and no safe or locking file cabinet shall be offered for sale pursuant to this Part 101-45 unless empty and unlocked. When available, combinations should be taped and/or keys strapped to the outside front of the safe or cabinet.

[41 FR 5097, Feb. 4, 1976]

§ 101-45.309-11 Certified and noncertified electronic products.

(a) For the purpose of this section "certified electronic product" means any surplus or exchange/sale electronic product which bears the manufacturer's certification label or tag (21 CFR 1010.2) indicating that the product meets applicable radiation safety performance standards prescribed by the Food and Drug Administration under 21 CFR Part 1000. "Noncertified electronic products" are electronic products of a type subject to but manufactured before the effective date of such FDA performance standards; for example, an old model TV set or an electronic product which has been exempted from an applicable standard and is so labeled.

(b) The sale of the following certified and noncertified exchange/sale and surplus electronic products which are not required for transfer or donation shall be accomplished in accordance with the provisions of § 101-45.304 and the special conditions of sale in this § 101-45.309-11:

(1) Noncertified color and black and white television receivers;

(2) Noncertified microwave ovens;

(3) Certified and noncertified diagnostic X-ray systems and their major components;

(4) Certified and noncertified cabinet X-ray systems;

(5) Noncertified laser products;

(6) Noncertified cold-cathode gas discharge tubes under conditions of scrap or salvage; and

(7) Any other noncertified electronic product for which FDA may promulgate a performance standard.

(c) The invitations for bids shall contain a notice to bidders substantially as follows:

> Purchasers are warned that the item purchased herewith may not be in compliance with Food and Drug Administration radiation safety performance standards prescribed under 21 CFR 1000, and use may constitute a potential for personal injury unless modified. The purchaser agrees that the Government shall not be liable for personal injuries to, disabilities of, or death of the purchaser, the purchaser's employees, or to any other person arising from or incident to the purchase of this item, its use, or disposition. The purchaser shall hold the Government harmless from any or all debts, liabilities, judgments, costs, demands, suits, actions, or claims of any nature arising from or incident to the purchaser or resale of this item. The purchaser agrees to notify any subsequent purchaser of this property of the potential for personal injury in using this item without a radiation survey to determine the acceptability for use and/or modification to bring it into compliance with the radiation safety performance

standard prescribed for the item under 21 CFR Part 1000.

(d) Within 30 calendar days following award, the selling agency shall provide the State radiation control agency for the State in which the buyer is located (see § 101-45.4809) with a written notice of the award that includes the name and address of the purchaser and the description of the item sold.

[42 FR 24052, May 12, 1977, as amended at 42 FR 40854, Aug. 12, 1977]

§ 101-45.310 Antitrust laws.

Whenever an award is proposed to any private interest of personal property with an acquisition cost to the Government of $3,000,000 or more, or of a patent, process, technique, or invention, irrespective of cost, the selling agency shall promptly notify the Attorney General and the Administrator of General Services, simultaneously, of the proposed disposal and the probable terms and conditions thereof. Upon request by the Attorney General, the agency shall furnish or cause to be furnished to the Attorney General such additional information as the agency may possess concerning the proposed disposition. The Attorney General will advise the agency and the Administrator of General Services within a reasonable time, in no event to exceed 60 days after receipt of such notification, whether, so far as he can determine, the proposed disposition would tend to create or maintain a situation inconsistent with the antitrust laws. The agency shall not effect disposition until it has received such advice. The agency shall include in the notification transmitted to the Attorney General and the Administrator of General Services, the following information:

(a) Location and description of property (specifying the tonnage, if scrap).

(b) Proposed sale price of property (explaining the circumstances, if proposed purchaser was not highest bidder).

(c) Acquisition cost of property to Government.

(d) Manner of sale, indicating whether by:

(1) Sealed bid (specifying numbers of purchasers solicited and bids received);

(2) Auction or spot bid (stating how sale was advertised); or

(3) Negotiation (explaining why property was not offered for sale by competitive bid).

(e) Proposed purchaser's name, address, and trade name (if any) under which it is doing business.

(f) If a corporation, give name of State and date of incorporation, and name and address of:

(1) Each holder of 25 percent or more of the corporate stock;

(2) Each subsidiary; and

(3) Each company under common control with proposed purchaser.

(g) If a partnership, give:

(1) Name and address of each partner;

(2) Other business connections of each partner.

(h) Nature of proposed purchaser's business, indicating whether its scope is local, statewide, regional, or national.

(i) Estimated dollar sales volume of proposed purchaser (as of latest calendar or fiscal year).

(j) Estimated net worth of proposed purchaser.

(k) Proposed purchaser's intended use of property.

§ 101-45.311 Assistance in controlling unauthorized transport of property.

In order to help alleviate the problems associated with unauthorized transport of property sold by the Government, and to assist the Interstate Commerce Commission in improving control of transportation for hire, the following information shall be made known to all purchasers and shall be included as a "Special Instruction to Bidders" in all formal invitations requesting bids or offers for the sale of personal property:

> Attention is invited to the fact that the Interstate Commerce Act makes it unlawful for anyone other than those duly authorized pursuant to that Act to transport this property in interstate commerce for hire. Anyone aiding or abetting in such violation is a principal in committing the offense (49 U.S.C. 301-327 and 18 U.S.C. 2).

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§ 101-45.312 Auctioneers.

When an auction is to be conducted and the services of a private auctioner are necessary, the names of auctioneers qualified to conduct Government sales shall be requested from the Administrator of General Services.

§ 101-45.313 Procedures and forms concerning contingent or other fees for soliciting or securing contracts.

§ 101-45.313-1 Purpose.

For the purpose of promoting uniformity among executive agencies with respect to the required use of the "covenant against contingent fees" and with respect to the procedure for obtaining information concerning contingent or other fees paid by contractors for soliciting and securing Government contracts, the Department of Defense and GSA have developed cooperatively and agreed upon the required use of the "covenant against contingent fees" and the form, procedure, principles, and standards described in this section.

§ 101-45.313-2 Objectives and methods.

(a) *Objectives.* The requirements of § 101-45.313 have as their objective the prevention of improper influence in connection with the obtaining of Government contracts, the elimination of arrangements which encourage the payment of inequitable and exorbitant fees bearing no reasonable relationship to the services actually performed, and prevention of the reduction in return to the Government which inevitably results therefrom. Improper influence means influence, direct or indirect, which induces or intends to induce consideration or action by any employee or officer of the United States with respect to any Government contract on any basis other than the merits of the matter.

(b) *Methods.* The methods used to achieve the above objectives stated in paragraph (a) of this section are the requirement for disclosure of the details of arrangements under which agents represent concerns in obtaining Government contracts, and the prohibiting, by use of the covenant against contingent fees, of certain types of contractor-agent arrangements. The Criminal Code will apply in any case involving actual criminal conduct.

§ 101-45.313-3 Representation and covenant.

(a) *Representation.* Except as provided in § 101-45.313-7, each selling agency shall inquire of and secure a written representation from prospective purchasers as to whether they have employed or retained any company or person (other than a full-time employee working solely for the prospective purchaser) to solicit or secure the contract, and shall secure a written agreement to furnish information relating thereto as required by the sales contracting officer. The form of such representation shall be that contained in Standard Form 114, Sale of Government Property—Bid and Award (illustrated in § 101-45.4901-114).

(b) *Covenant.* Selling agencies shall include in every negotiated or advertised contract for the sale of Government-owned personal property the "covenant against contingent fees" as contained in the Standard Form 114C, General Sale Terms and Conditions (illustrated in § 101-45.4901-114C).

[42 FR 40854, Aug. 12, 1977]

§ 101-45.313-4 General principles and standards applicable to the covenant.

(a) *Use of principles and standards.* The principles and standards set forth in this § 101-45.313-4 are intended to be used as a guide in the negotiation, awarding, administration, or enforcement of Government contracts.

(b) *Contingent character of the fee.* Any fee whether called commission, percentage, brokerage, or contingent fee, or otherwise denominated, is within the purview of the covenant if, in fact, any portion thereof is dependent upon success in obtaining or securing the Government contract or contracts involved. The fact, however, that a fee of a contingent nature is involved does not preclude a relationship which qualifies under the exceptions to the prohibition of the covenant.

(c) *Exceptions to the prohibition.* There are excepted from the prohibition of the covenant "bona fide employees" and "bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business."

(d) *Bona fide employee.* (1) The term "bona fide employee," for the purpose of the exception to the prohibition of the covenant, means an individual (including a corporate officer) employed by a concern in good faith to devote his full time to such concern and no other concern and over whom the concern has the right to exercise supervision and control as to time, place, and manner of performance of work.

NOTE: It is recognized that a concern, especially a small business concern, may employ an individual who represents other concerns. The factors set forth in § 101-45.313-4(e)(2), except (iv), shall be applied to determine whether such an individual comes within the exception to the prohibition of the covenant.

(2) The hiring must contemplate some continuity and it may not be related only to the obtaining of one or more specific Government contracts.

(3) An employee is not "bona fide" who seeks to obtain any Government contract or contracts for his employer through the use of improper influence or who holds himself out as being able to obtain any Government contract or contracts through improper influence.

(4) A person may be a bona fide employee whether his compensation is on a fixed salary basis, or when customary in the trade, on a percentage, commission, or other contingent basis or a combination of the foregoing.

(e) *Bona fide established commercial or selling agency maintained by the contractor for the purpose of securing business.* (1) An agency or agent is not "bona fide" which seeks to obtain any Government contract or contracts for its principals through the use of improper influence or which holds itself out as being able to obtain any Government contract or contracts through improper influence.

(2) In determining whether an agency is a "bona fide established commercial or selling agency maintained by the contractor for the purpose of securing business," the factors set forth below shall be considered. They are necessarily incapable of exact measurement or precise definition and it is neither possible nor desirable to prescribe the relative weight to be given any single factor as against any other factor or as against all other factors. The conclusions to be reached in a given case will necessarily depend upon a careful evaluation of the agreement and other attendant facts and circumstances.

(i) The fees charged should not be inequitable and exorbitant in relation to the services actually rendered. That is, the compensation should be commensurate with the nature and extent of the services and should not be excessive as compared with the fees customarily allowed in the trade concerned for similar services related to commercial (non-Government) business. In evaluating reasonableness of the fee, there should be considered services of the agent other than actual solicitation, as for example, technical, consultant, or managerial services, and assistance in the procurement of essential personnel, facilities, equipment, materials, or subcontractors for performance of the contract.

(ii) The selling agency should have adequate knowledge of the products and the business of the concern represented, as well as other qualifications necessary to sell the products or services on their merits.

(iii) There should ordinarily be a continuity of relationship between the contractor and the agency. The fact that the agency has represented the contractor over a considerable period of time is a factor for favorable consideration. It is not intended, however, to disqualify newly established contractor-agency relationships where a continuing relationship is contemplated by the parties.

(iv) It should appear that the agency is an established concern. The agency may be either one which has been in business for a considerable period of time or a new agency which is a presently going concern and which is likely to continue in business as a commercial or selling agency in the future. The business of the agency should be conducted in the agency name and characterized by the customary indicia of the conduct of a regular business.

(v) The fact that a selling agency confines its selling activities to the field of Government contracts does not, in and of itself, disqualify it under the covenant. The fact, however, that the selling agency is employed to secure business generally, that is, to represent the concern in connection with sales to the Government, as well as regular commercial sales to non-Government activities, is a factor entitled to favorable consideration in evaluating the case as one coming within the authorized exception. Arrangements confined, however, to obtaining Government contracts, particularly those involving a selling agency organized immediately prior to or during periods of expanded procurement resulting from conditions of national emergency, must be closely scrutinized.

(f) *Fees for "information."* Contingent fees paid for "information" leading to obtaining a Government contract or contracts are included in the prohibition and, accordingly, are in breach of the covenant unless the agent qualified under the exception as a bona fide employee or a bona fide established commercial or selling agency maintained by the contractor for the purpose of securing business.

§ 101-45.313-5 Standard Form 119, Contractor's Statement of Contingent or Other Fees.

Pursuant to the Act and in furtherance of the purpose and objectives stated in sections 1 and 3 thereof, Standard Form 119, shall be used in accordance with the provisions of this § 101-45.313.

§ 101-45.313-6 Use of Standard Form 119, Contractor's Statement of Contingent or Other Fees.

(a) *Required use.* Except as provided in § 101-45.313-7, Standard Form 119 shall be used, without deviation, whenever either part of the inquiry provided for in § 101-45.313-3(a) with respect to contingent fees is answered in the affirmative. The form shall be used also, without deviation, in any other case where an agency desires to obtain such information. When, after use of the form, further information is required, it may be obtained in any appropriate manner. Submission of the form shall be required, normally, only of successful bidders and contractors.

(b) *Statement in lieu of form.* Any bidder who has previously furnished a Standard Form 119 to the office issuing the invitation or negotiating the contract may be permitted to accompany his bid with, or submit in connection with the proposed contract, a signed statement indicating when such completed form was previously furnished, identifying by number the previous invitation or contract in connection with which such form was submitted; and representing that the statements in such previously furnished form are applicable to such subsequent bid or contract. In such case, submission of an additional completed Standard Form 119 need not be required.

§ 101-45.313-7 Exceptions.

The inquiry and agreement specified in § 101-45.313-3(a) need not be made and submission of Standard Form 119 need not be requested in connection with any of the following:

(a) Any advertised contract in which the aggregate amount involved does not exceed $25,000.

(b) Any negotiated contract in which the aggregate amount involved does not exceed $5,000.

(c) Contracts to be made in foreign countries.

(d) Any other contracts, individually or by class, of the Department of Defense, designated by the Secretary, Under Secretary, or Assistant Secretary of a military department. (Reports of any such exceptions shall be filed promptly with the Administrator of General Services.)

[30 FR 2930, Mar. 6, 1965, as amended at 35 FR 12121, July 29, 1970]

§ 101-45.313-8 Enforcement.

(a) *Failure or refusal to furnish representation and agreement.* Each selling agency shall take the necessary steps to assure that the indicated successful bidder or proposed contractor has furnished a representation (negative or affirmative) and agreement as prescribed in § 101-45.313-3.

(1) If the indicated successful bidder makes such representation in the neg-

ative such representation may be accepted and award made or offer accepted in accordance with established procedure.

(2) If the indicated successful bidder or proposed contractor makes such representation in the affirmative, a completed Standard Form 119 shall be requested from the bidder or proposed contractor. In the case of formal advertising, the making of an award in accordance with established procedure need not be delayed pending receipt of the form. In the case of negotiation, if the proposed contractor makes such representation in the affirmative, he shall be required to file a completed Standard Form 119 prior to acceptance of the offer or execution of the contract unless the head of the executive agency (including for this purpose, any military department) concerned, or his authorized representative, considers that the interest of the Government will be prejudiced by the suspension of negotiations pending receipt and consideration of an executed Standard Form 119.

(3) If the indicated successful bidder or proposed contractor fails to furnish the representation and agreement, such failure shall be considered a minor informality and, prior to award, such bidder or proposed contractor shall be afforded a further opportunity to furnish such representation and agreement. A refusal or failure to furnish such representation and agreement, after such opportunity has been afforded, shall require rejection of the bid or offer.

(b) *Failure or refusal to furnish Standard Form 119.* If the successful bidder or contractor, upon request, refuses or fails to furnish a completed Standard Form 119, or a statement in lieu thereof as provided in § 101-45.313-6, the selling agency concerned shall take one or more of the following actions, or other action, as may be appropriate:

(1) If an award has not been made or offer accepted, determine whether the bid or offer should be rejected.

(2) If the contract has been awarded or the offer accepted, determine what action shall be taken, such as making an independent investigation or considering the eligibility of the contractor as a future contractor in accordance with established procedure.

(c) *Misrepresentations or violations of the covenant against contingent fees.* In case of misrepresentation, or violation or breach of the covenant against contingent fees, or some other relevant impropriety, the selling agency concerned shall take one or more of the following actions, or other action, as may be appropriate:

(1) If an award has not been made, or offer has not been accepted, determine whether the bid or offer should be rejected.

(2) If an award has been made or offer has been accepted, take action to enforce the covenant in accordance with its terms, that is, as the best interests of the Government may appear, annul the contract without liability or recover the amount of the fee involved.

(3) Consider the future eligibility as a contractor of the bidder or contractor in accordance with established procedure.

(4) Determine whether the case should be referred to the Department of Justice in accordance with established procedure with respect to determining matters of fraud or criminal conduct.

§ 101-45.313-9 Preservation of records.

Selling agencies shall preserve, for enforcement or report purposes, at least one executed copy of any representation and completed Standard Form 119, together with a record of any other pertinent data, including data as to action taken.

§ 101-45.314 Federal excise taxes.

Federal manufacturers' and retailers' excise taxes are not applicable to the sale or other disposal by the Government of personal property or the disposal of contractor inventory. Federal manufacturers' excise taxes do not apply to subsequent sales, including uses, by purchasers of Government property and contractor inventory. Federal retailers' excise taxes apply to subsequent sales, but not to subsequent uses by the purchasers unless the subsequent sale is made for resale and a certificate of resale is obtained.

The foregoing does not apply to gasoline, and holding agencies shall make appropriate arrangements with the Internal Revenue Service with respect to the disposal thereof. Questions relating to the applicability of Federal excise taxes arising from the disposal of property or contractor inventory should be referred to the Internal Revenue Service.

§ 101-45.315 Equal Opportunity clause in contracts.

The Equal Opportunity clause prescribed by Executive Order No. 11246 of September 24, 1965 (30 FR 12319, 12935) (as amended by Executive Order No. 11375 of October 13, 1967 (32 FR 14303)), as set forth in § 101-45.4807, shall be included in all contracts for the sale of personal property when the contract exceeds $10,000, and an appreciable amount of work by the purchaser required by or for the Government is involved. When a sale is planned and the probability exists that the foregoing conditions will be present, the Equal Opportunity clause shall be included in the contract provisions of the invitation as a special condition of sale.

[42 FR 40854, Aug. 12, 1977]

§ 101-45.316 Report on identical bids.

§ 101-45.316-1 Governing order.

Executive Order No. 10936 of April 24, 1961 (26 FR 3555; 3 CFR) requires agencies to report information on identical bids to the Department of Justice.

§ 101-45.316-2 Reporting requirements and procedures.

When an invitation for bids for the sale of personal property results in submission of identical bids under the conditions set forth in this § 101-45.316-2, a copy of the invitation and a copy of the completed abstract of bids, with identical bid prices (other than nominal or token bids) circled, shall be forwarded to the Attorney General, Washington, D.C., Reference AT-IBR, within 20 days following the disposition of all bids received in response to the invitation involved whether by awarding of contract(s) or other action:

(a) Where bids or offers were solicited through the formal sealed bid method of sale using Standard Form 114 Assembly, Sale of Government Property;

(b) Where the bid value of the line item(s) on which identical bids were received exceeds $2,500 (based on the apparent high bid received for such line item); and

(c) Where the total bid value of all line items covered by the invitation exceeds $10,000 (based on the apparent high bid received for each line item).

§ 101-45.316-3 Supplemental requests by Attorney General.

The Attorney General may, from time to time, request such supplemental information as he may deem necessary for effective enforcement of antitrust laws.

§ 101-45.316-4 Antitrust law referrals.

The submission of information on identical bids is in addition to and is not to be considered as satisfying the requirements of § 101-45.310, for notifying the Attorney General and the Administrator of General Services regarding proposed disposals which are required to be referred to the Attorney General for antitrust advice.

§ 101-45.317 Noncollusive bids and proposals.

(a) Condition No. 20 of the General Sale Terms and Conditions, Standard Form 114C, contains the certification of independent price determination. This condition is applicable to all invitations for bids and requests for proposals or quotations providing for the sale of personal property, except fixed price sale under section 203(e)(5) of the Act.

(b) The authority to make determinations described in paragraph (d) of Condition No. 20 of the General Sale Terms and Conditions, Standard Form 114C, shall not be delegated to an official below the level of the head of a selling activity of the agency.

(c) Where a certification is suspected of being false or there is an indication of collusion, the matter shall be referred to the Department of Justice as provided in § 101-45.107-1.

[31 FR 9542, July 14, 1966, as amended at 35 FR 12121, July 29, 1970]

§ 101-45.318 Identical bids.

In addition to complying with the requirements of §§ 101-45.316 and 101-45.317, when an invitation for bids for the sale of personal property results in the submission of identical bids, consideration shall be given to whether adequate prime competition was obtained. Whether there is adequate price competition for a given sale is a matter of judgment to be based on the circumstances of the sale. If the circumstances do not permit a reasonable determination that the price competition was adequate, the sale should be resolicited.

[36 FR 12297, June 30, 1971]

Subpart 101-45.4—[Reserved]

Subpart 101-45.5—Abandonment or Destruction of Surplus Property

SOURCE: 42 FR 56025, Oct. 20, 1977, unless otherwise noted.

§ 101-45.500 Scope of subpart.

This subpart prescribes the policies and methods governing the disposition of personal property by abandonment or destruction by executive agencies and by a State agency as defined in § 101-44.001-14.

§ 101-45.501 Findings justifying abandonment or destruction.

§ 101-45.501-1 General.

(a) Except for the property disposed of under §§ 101-45.504, 101-45.505, or 101-45.506, property shall not be abandoned or destroyed by an executive agency or a State agency unless it has been affirmatively found in writing by a duly authorized official or the executive or State agency that (1) the property has no commercial value, or (2) the estimated cost of its continued care and handling would exceed the estimated proceeds from its sale. This finding shall not be made by any official directly accountable for the property covered thereby.

(b) In accordance with § 101-44.205(k), a State agency is required to notify the appropriate GSA regional office of the above finding before taking any abandonment or destruction action. This notification shall include a detailed and accurate description of the property and its condition. If the GSA regional office does not contact the State agency within 30 calendar days, the property may be disposed of under this Subpart 101-45.5.

§ 101-45.501-2 Reviewing authority.

Whenever a line item of the property proposed to be disposed of under this Subpart 101-45.5 at any one location at any one time had an original acquisition cost (estimated if unknown) of more than $1,000, findings made under § 101-45.501-1 shall be approved by an executive agency or State agency reviewing authority before disposal.

§ 101-45.502 Authority to abandon or destroy.

(a) Property may be abandoned or destroyed by an executive agency in accordance with this Subpart 101-45.5 provided that donation of the property in accordance with Subpart 101-44.7 has been determined in writing, to be infeasible, by a duly authorized official of such agency.

(b) No abandonment or destruction shall be made in a manner which is detrimental or dangerous to public health or safety, or which will cause infringement of the rights of other persons. If at any time prior to actual abandonment or destruction donation of property in the possession of an executive agency pursuant to Subpart 101-44.7 or in the possession of a State agency pursuant to Subpart 101-44.2 becomes feasible, such donation shall be made.

§ 101-45.503 Notice of proposed abandonment or destruction.

Except as provided in §§ 101-45.504, 101-45.505, and 101-45.506, property shall not be abandoned or destroyed by any executive agency or State agency until after public notice of such proposed abandonment or destruction. Such notice shall be given in the area in which the property is located, shall contain a general description of the property to be abandoned or destroyed, and shall include an offering of the property for sale

§ 101-45.504 Abandonment or destruction without notice.

(a) Property may be abandoned or destroyed by an executive agency and by State agencies without public notice upon a written finding by a duly authorized official thereof, approved by a reviewing authority, that the immediate abandonment or destruction of the property is necessary or desirable in the best public interest because of its nature or because of the expense or difficulty of its care and handling. Such abandonment or destruction would be appropriate whenever:

(1) The value of the property is so little or the cost of its care and handling is so great that its retention for advertising for sale is clearly not economical; or

(2) Abandonment or destruction is required because of health, safety, or security considerations.

(b) Whenever any line item of the property proposed to be abandoned or destroyed at any one location at any one time had an original acquisition cost (estimated if unknown) of less than $100, it shall be presumed for the purposes of this § 101-45.504 that its immediate abandonment or destruction without notice is justified by reason of the expense or difficulty of its care and handling.

§ 101-45.505 Destruction of surplus drugs, biologicals, and reagents.

(a) Surplus drugs, biologicals, and reagents shall not be abandoned and the following shall be destroyed by the holding agency or State agency in accordance with the provisions of this § 101-45.505:

(1) *Controlled substances.* (i) Controlled substances in a deteriorated condition or otherwise unusable.

(ii) Quantities of controlled substances determined to be surplus at one time and one place having an acquisition cost of less than $500.

(iii) Controlled substances which have been offered for sale in accordance with the provisions of § 101-45.309-6 but for which no satisfactory or acceptable bids have been received.

(2) *Drugs, biologicals, and reagents.* (i) Surplus drugs, biologicals, and reagents other than controlled substances determined by the holding agency or State agency to be unsafe because of deterioration or overage condition, in open or broken containers, or recommended for destruction by the Food and Drug Administration.

(ii) Surplus drugs, biologicals, and reagents other than controlled substances with an acquisition cost of less than $500 per manufacturers' lot or batch number.

(iii) Surplus drugs, biologicals, and reagents other than controlled substances which have been offered for sale in accordance with the provisions of § 101-45.309-7 but for which no satisfactory or acceptable bid or bids have been received.

(b) When surplus drugs, biologicals, and reagents, including controlled substances, are required to be destroyed by the holding agency or State agency, they shall be destroyed in such a manner as to ensure total destruction of the substance to preclude the utilization of any portion thereof. The destruction shall be in accordance with Federal, State, and local air and water pollution control standards. When major amounts are to be destroyed, the action shall be coordinated with local air and water pollution control authorities. For controlled substances, in addition to the requirements set forth herein, each executive agency and State agency shall comply with the provisions of 21 CFR 1307.21 of Drug Enforcement Administration (DEA) regulations or with equivalent procedures approved by DEA.

(c) Destruction of surplus drugs, biologicals, and reagents, including controlled substances shall be performed by an employee of the holding agency or State agency in the presence of two additional employees of the agency as witnesses to that destruction unless in the case of controlled substances the Regional Director of DEA directs otherwise.

(d) When surplus drugs, biologicals, and reagents, including controlled substances, have been destroyed, the fact, manner, and date of the destruction and the type and quantity destroyed shall be certified to by the agency employee charged with the responsibility for that destruction. The two agency employees who witnessed the destruction shall sign the following statement which shall appear on the certification below the signature of the certifying employee:

I have witnessed the destruction of the (controlled substances) (drugs, biologicals, and reagents other than controlled substances) described in the foregoing certification in the manner and on the date stated herein:

____

witness ——————— date —————

____

witness ——————— date —————

(e) Items mentioned parenthetically in the statement contained in paragraph (d) of this section which are not applicable at the time of destruction shall be deleted from the statement. The signed certification and statement of destruction shall be made a matter of record and shall be retained in the case files of the holding agency or State agency.

§ 101-45.506 Abandonment or destruction of expendable property.

Property, such as obsolete unclassified navigation charts, electric light bulbs, radio tubes, fuses, resistors, capacitors, air filters, dust cloths, and teletype part replacement, which has been rendered unserviceable may be abandoned or destroyed without public notice pursuant to the rules, regulations, or instructions prescribed by the executive agency or State agency generating the property when accumulation of the property for disposal or rehabilitation is not economical or in the best interest of the Government.

Subpart 101-45.6—Debarred and Suspended Bidders

§ 101-45.600 Scope of subpart.

This subpart provides information and guidance governing the debarment and suspension of bidders relative to the sales of personal property.

[32 FR 8145, June 7, 1967]

§ 101-45.601 Applicability.

The policies and procedures with respect to the debarment and suspension of bidders applicable to procurement contained in Federal Procurement Regulations Subpart 1-1.6, unless otherwise provided herein, shall be applicable also, to the extent feasible, to the debarment and suspension of bidders with respect to sales of personal property.

[32 FR 8145, June 7, 1967]

§ 101-45.602 General.

Debarment and suspension are measures which may be invoked by the Government either to exclude or to disqualify bidders and contractors from participation in Government sales of personal property. These measures should be used for the purpose of protecting the interests of the Government and not for punishment. To assure that the Government derives the benefit from full and free competition of interested bidders, these measures should not be instituted for any time longer than deemed necessary to protect the interests of the Government, and should preclude awards only for the probable duration of the period of nonresponsibility.

[32 FR 8145, June 7, 1967]

§ 101-45.603 Notices of debarment or suspension.

(a) Any notice of debarment instituted hereunder shall be consistent with the requirements of FPR 1-1.604-1, shall be in writing, and shall provide the affected party an opportunity for a hearing if he so requests within a 20-day period from the date of mailing. The written notice shall be sent by registered or certified mail, return receipt requested, to the last known address of the party. Where the notice is sent by registered or certified mail to the last known address of the party but actual or personal delivery is not effected by the U.S. Postal Service or by other means, a debarment may be imposed; but upon the submission of an appropriate application any such debarment shall be subject to reopening, and in such event a hearing shall be accorded in respect to the debarment.

(b) Any notice of suspension instituted hereunder shall be consistent with the requirements of FPR 1-1.605-3, shall be in writing, and shall be sent to the affected party by registered or certified mail, return receipt requested, to the last known address of the party in question. The suspension shall be effective upon the mailing of this notice. However, whether or not actual or personal delivery is accomplished by the U.S. Postal Service, the party in question may, at any time, submit information in opposition to such suspension and such information shall be duly considered.

[39 FR 44756, Dec. 27, 1974]

Subpart 101-45.7—Submission of Bids

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

SOURCE: 37 FR 24666, Nov. 18, 1972, unless otherwise noted.

§ 101-45.700 Scope of subpart.

This subpart prescribes policies and methods relating to bids submitted in advertised sales of Government personal property and includes the treatment of late bids received in connection with such sales.

§ 101-45.701 Responsiveness of bids.

(a) To be considered for award, a bid must comply in all material respects with the invitation for bids so that, both as to the method and timeliness of submission and as to the substance of any resulting contract, all bidders may stand on an equal footing and the integrity of the formal advertising system may be maintained.

(b) Telegraphic or telephonic bids shall not be considered unless otherwise provided in the invitation for bids. (See § 101-45.4901-114C, item No. 3 entitled "Consideration of Bids.") The term "telegraphic bids" includes bids submitted by telegram or by mailgram. The following statement should be included in all invitations for bids: "The terms 'telegraphic bid' and 'telegraphic notice' include bids and notices by telegram or by mailgram."

(c) Bids shall be filled out, executed, and submitted in accordance with the instructions contained in the invitation for bids. If a bidder uses his own bid form or a letter to submit a bid, the bid may be considered only if (1) the bidder accepts all the terms and conditions of the invitation for bids and (2) award on the bid would result in a binding contract, the terms and conditions of the invitation.

[37 FR 24666, Nov. 18, 1972, as amended at 43 FR 11820, Mar. 22, 1978]

§ 101-45.702 Time of bid submission.

Bids shall be submitted so as to be received by the contracting officer not later than the exact time set for opening of bids. When telegraphic bids are authorized and such a bid is received by telephone from the receiving telegraph office not later than the time set for opening of bids, it shall be considered only if the bid is confirmed by receipt of a copy of the telegram or mailgram which formed the basis for the telephone call.

[43 FR 11821, Mar. 22, 1978]

§ 101-45.703 Late bids.

§ 101-45.703-1 General.

Bids received by the contracting officer after the exact time set for bid opening are late bids. (See §§ 101-45.4904-1-114C-1, 101-45.4901-114C-2, and 101-45.4901-114C-3 for item entitled "Consideration of late Bids, Modifications, or Withdrawals.") Late bids shall not be considered for award except as authorized in this § 101-45.703.

[42 FR 40854, Aug. 12, 1977]

§ 101-45.703-2 Consideration for award.

(a) A late bid shall be considered for award only:

(1) In the instance of sealed bid sales, if the bid submitted by mail was received by the contracting officer prior to award, was mailed and, in fact, delivered to the address specified in the invitation in sufficient time to have been received by the contracting officer by the time and date set forth

in the invitation for opening of bids, and except for delay attributable to personnel of the sales office or their designees would have been received on time; or

(2) In the instance of spot bid and auction sales, if the bid submitted by mail (where authorized) was received by the contracting officer after the time and date set forth in the invitation for receipt of bids but before the time set for the start of the sale, and was mailed and, in fact, delivered to the address specified in the invitation in sufficient time to have been received by the contracting officer by the time and date set forth in the invitation for receipt of bids, and except for delay attributable to personnel of the sales office or their designees would have been received on time.

(b) The only evidence acceptable to establish timely receipt of bids at the address designated in the invitation for bids is documentary evidence of receipt at such address within the control of the selling agency. Such evidence could be a date or time stamp, or a log entry.

§ 101-45.703-3 Telegraphic bids.

A late bid submitted by telegraph (where authorized) received before award shall not be considered for award regardless of the cause of the late receipt, including delays caused by the telegraph company, except for a telegraphic bid delayed solely because of mishandling on the part of the Government in its transmittal to the office designated in the invitation for bids for the receipt of bids.

§ 101-45.703-4 Handcarried bids.

A late handcarried bid or any other late bid not submitted by mail, telegram, or mailgram shall not be considered for award.

[43 FR 11821, Mar. 22, 1978]

§ 101-45.703-5 Disposition of late bids.

A late bid which is not for consideration shall be returned to the bidder as promptly as possible (unless other disposition is requested or agreed to by the bidder). However, an unidentified late bid may be opened solely for the purpose of identification and then only by the contracting officer or his authorized representative. Late bids opened for identification purposes or by mistake shall be resealed in the envelope. The contracting officer or his authorized representative shall immediately write on the envelope his signature and position, date and time opened, invitation for bids number, and an explanation of the opening. No information contained therein shall be disclosed to anyone.

§ 101-45.703-6 Records.

To the extent available, the following information shall be included in the contract case files with respect to each late bid:

(a) A statement of the date and hour of mailing or filing;

(b) A statement of the date and hour of receipt;

(c) A mechanical reproduction of the envelope, or other covering, if the late bid was returned, in lieu of paragraphs (a) and (b) of this section;

(d) The determination of whether the late bid was considered for award, with supporting facts;

(e) A statement of the disposition of the late bid; and

(f) The envelope, or other covering, if the late bid was considered for award.

§ 101-45.704 Modification or withdrawal of bids.

(a) Bids may be modified or withdrawn by written or telegraphic notice received by the contracting officer not later than the exact time set for opening of bids (in the instance of sealed bid sales) or not later than the exact time set for the receipt of mailed-in or telegraphic bids (in the instance of spot bid and auction sales where such bids are authorized). A telegraphic modification or withdrawal of a bid received by telephone from the receiving telegraph office not later than the time set for opening of bids shall be considered only if the message is confirmed by receipt of a copy of the written telegram or mailgram which formed the basis for the telephone call. Modifications received by telegram or mailgram (including a record of those telephoned by the telegraph company) shall be sealed in an envelope by a proper official who shall write thereon the date and time of receipt and by whom received, the invitation for bids, number, and his signature. No information contained therein shall be disclosed before the time set for bid opening or for the start of the sale. The term "telegraphic notice" includes modifications and withdrawals submitted by telegram or mailgram. The following statement should be included in all invitations for bids: "The terms 'telegraphic bid' and 'telegraphic notice' include bids and notices by telegram or by mailgram."

(b) A bid may be withdrawn in person by a bidder or his authorized representative, provided his identity is made known and he signs a receipt for the bid, but only if the withdrawal is prior to the exact time set for the opening of bids (in the instance of sealed bid sales) or the exact time set for the start of the sale (in the instance of spot bid and auction sales).

[37 FR 24666, Nov. 18, 1972, as amended at 43 FR 11821, Mar. 22, 1978]

§ 101-45.705 Late modifications and withdrawals.

(a) Modifications of bids and requests for withdrawal of bids which are received by the contracting officer after the exact time set for bid opening (in sealed bid sales) or after the exact time set for the receipt of bids (in spot bid or auction sales) are "late modifications" and "late withdrawals", respectively. A late modification or late withdrawal shall be subject to the provisions of § 101-45.703. However, a late modification of the otherwise successful bid shall be opened at any time it is received; and if in the judgment of the contracting officer it makes the terms of the bid more favorable to the Government, it shall be considered.

(b) Mailed-in, telegraphic, and mailgram modifications or withdrawals which are received by the contracting officer after the time set for the start of a spot bid or auction sale shall not be considered, regardless of the cause of delay.

[37 FR 24666, Nov. 18, 1972, as amended at 43 FR 11821, Mar. 22, 1978]

Subpart 101-45.8—Mistakes in Bids

SOURCE: 32 FR 16270, Nov. 29, 1967, unless otherwise noted.

§ 101-45.800 Scope of subpart.

This subpart prescribes the policies and methods governing the treatment by executive agencies of mistakes in bids by bidders in sales of personal property. The authorities prescribed herein are not intended to nullify previous authorities granted by the Comptroller General.

§ 101-45.801 General.

After the opening of bids, sales contracting officers shall examine all bids for mistakes. Where the sales contracting officer has reason to believe that a mistake may have been made, he shall request from the bidder a verification of the bid, calling attention to the suspected mistake. If the bidder alleges a mistake, the matter shall be processed in accordance with this Subpart 101-45.8. Such actions shall be taken prior to award.

§ 101-45.802 Apparent clerical mistakes.

Any clerical mistake apparent on the face of a bid may be corrected by the sales contracting officer prior to award if the sales contracting officer has first obtained from the bidder verification of the bid actually intended. An example of such an apparent mistake is an error in placing the decimal point (e.g., a bidder bids $10 each on 10 units, but shows an extended price of $1,000 or a bidder bids $0.50 per lb. for 1,000 lbs. but shows an extended price of $50). Any correction made pursuant to this § 101-45.802 shall be reflected in the award document, if an award is made on the corrected bid.

§ 101-45.803 Other mistakes disclosed before award.

(a) Heads of executive agencies are authorized (with power of redelegation as provided in §§ 101-45.803(b) and 101-45.804(d)), in order to minimize delay in contract awards, to make the administrative determinations described in this § 101-45.803 in connection with mistakes in bids alleged after opening of bids and before award. The authority contained herein to permit correction of bids is limited to bids which, as submitted, are responsive to the invitation for bids, and may not be used to permit correction of bids to make them responsive. This authority is in addition to that in § 101-45.802 or that which may be otherwise available.

(1) A determination may be made permitting the bidder to withdraw his bid where the bidder requests permission to do so and clear and convincing evidence establishes the existence of a mistake.

(2) However, if the evidence is clear and convincing both as to the existence of a mistake and as to the bid actually intended, and if the bid as submitted and as corrected is the highest received, a determination may be made to correct the bid and not permit its withdrawal.

(3) A determination may be made permitting the bidder to correct his bid where the bidder requests permission to do so and clear and convincing evidence establishes both the existence of a mistake and the bid actually intended. However, if the correction would result in displacing one or more higher acceptable bids, the determination shall not be made unless the existence of the mistake and the bid actually intended are ascertainable substantially from the invitation and bid itself. If the evidence is clear and convincing only as to the mistake, but not as to the intended bid, a determination permitting the bidder to withdraw his bid may be made.

(4) If the evidence does not warrant a determination under paragraph (a)(1), (2), or (3) of this section, a determination may be made that a bidder may neither withdraw nor correct his bid.

(b) Heads of executive agencies may delegate to one central authority in their agencies, without power of redelegation, authority to make the determinations under paragraphs (a) (2), (3), and (4) of this § 101-45.803. The authority to make determinations to permit withdrawal of bids as provided in paragraphs (a) (1) and (3) of this section may be delegated, without power of redelegation, to any sales activity having legal counsel available.

(c) Each proposed determination shall be approved by the gency's General Counsel, Deputy or Associate General Counsel, and Assistant General Counsel, or other comparable legal officer. However, authority to approve determinations to permit withdrawal of bids pursuant to paragraph (a) (1) and (3) of this section may be delegated to the legal counsel of sales activities.

(d) Suspected or alleged mistakes shall be processed as follows:

(1) Whenever the sales contracting officer suspects that a mistake may have been made in a bid, he shall immediately request the bidder to verify the bid. Such request shall inform the bidder of the basis for suspecting a mistake and shall advise the bidder that if a mistake is alleged, to support his allegation by statements concerning the alleged mistake and by all pertinent evidence; such as the bidder's file copy of the bid, his original worksheets and other data used in preparing the bid, and any other evidence which conclusively establishes the existence of the error, the manner in which it occurred, and the bid actually intended. If the time for acceptance of bids is likely to expire before a decision can be made, the sales contracting officer shall request all bidders whose bids may become eligible for award to extend the time for acceptance of their bids. If the bidder whose bid is believed erroneous does not grant such extension of time and a decision cannot be reached before expiration of the time for acceptance, even if handled by telegraph or telephone as provided in § 101-45.803(d)(4), the bid shall be considered as originally submitted.

(2) If the bidder verifies his bid, the sales contracting officer shall consider it as originally submitted.

(3) Where the bidder furnishes evidence in support of an alleged mistake, the case shall be referred to the appropriate authority together with the following data:

(i) All evidence furnished by the bidder.

(ii) A copy of the bid and the invitation for bids.

(iii) An abstract or record of the bids received.

(iv) A written statement by the sales contracting officer setting forth—

(*a*) The expiration date of the bid in question and of the other bids submitted;

(*b*) Specific information as to how and when the mistake was alleged;

(*c*) Most recent contract price for a like item(s) involved, when sold, in what quantity, relative condition, etc.;

(*d*) A summary of the evidence submitted by the bidder;

(*e*) Any additional evidence considered pertinent, including copies of all correspondence between the sales contracting officer and the bidder concerning the alleged mistake; and

(*f*) The course of action with respect to the bid that the sales contracting officer considers proper on the basis of the evidence.

(4) When time is of the essence, because of the expiration of bids or otherwise, the sales contracting officer may refer the case by telegraph or telephone to the designated authority. Ordinarily, however, sales contracting officers will not refer mistake in bid cases to the designated authority by telegraph or telephone, particularly when the determinations set forth in paragraphs (a)(2) and (3) of this § 101-45.803 are applicable, since actual examination of the evidence is generally necessary to determine the proper action to be taken.

(5) Where the bidder fails or refuses to furnish evidence in support of a suspected or alleged mistake, the sales contracting officer shall consider the bid as submitted unless there are indications of error so clear as reasonably to justify the conclusion that acceptance of the bid would be unfair to the bidder or to other bona fide bidders, in which case it may be rejected. This action will be cleared through counsel serving the cognizant sales contracting officer. The attempts made to obtain the information required and the action taken with respect to the bid shall be fully documented.

(e) Nothing contained in this § 101-45.803 shall deprive the Comptroller General of his statutory right to question the correctness of any administrative determination made hereunder nor deprive any bidder of his right to have the matter determined by the Comptroller General should he so request. All doubtful cases shall be submitted to the Comptroller General for advance decision in accordance with agency procedures.

(f) Each agency shall maintain records of all administrative determinations made in accordance with this § 101-45.803, the facts involved, and the action taken in each case. Copies of all such administrative determinations shall be included in the case file. Where a contract is awarded, the General Accounting Office copy of the contract, whenever filed, shall be accompanied by a signed copy of any related determination.

[32 FR 16270, Nov. 29, 1967, as amended at 42 FR 31455, June 21, 1977; 42 FR 34881, July 7, 1977]

§ 101-45.804 Mistakes disclosed after award.

(a) When a mistake in bid is not discovered until after the award, the mistake may be corrected by supplemental agreement if correcting the mistake would make the contract more favorable to the Government without changing the essential requirements of the contract.

(b) In addition to the cases contemplated in § 101-45.804(a), heads of executive agencies are authorized, under the circumstances set forth in § 101-45.804(c), to make the administrative determinations described below in connection with mistakes in bids alleged or disclosed after award. This authority is in addition to that provided by Pub. L. 85-804 (50 U.S.C. 1431-1435) or that which may be otherwise available.

(1) A contract may be rescinded in its entirety where the original total contract amount does not exceed $10,000.

(2) A contract, irrespective of amount, may be reformed (i) by deleting the item or items involved in the mistake where the deletion does not reduce the contract amount by more than $10,000; or (ii) by decreasing the price where the resultant decrease in price does not exceed $10,000 and the reformed contract price is not less than that of the otherwise next high

bid under the original invitation for bids.

(c) Determinations under § 101-45.804(b) may be made only on the basis of clear and convincing evidence that a mistake in bid was made, and either that the mistake was mutual or that the unilateral mistake made by the purchaser was so apparent as to have charged the sales contracting officer with notice of the probability of the mistake. If the evidence does not warrant a determination under paragraph (b)(1) or (2) of this § 101-45.804, determination may be made that no change shall be made in the contract as awarded.

(d) Heads of executive agencies may delegate to one central authority in their agencies, without power of redelegation, authority to make the determinations under this § 101-45.804.

(e) Each proposed determination shall be approved by the agency's General Counsel, Deputy or Associate General Counsel, an Assistant General Counsel, or other comparable legal officer.

(f) Mistakes disclosed after award shall be processed as follows:

(1) Whenever a mistake in bid is alleged or disclosed after award, the sales contracting officer shall advise the purchaser to support the alleged error by written statements and by all pertinent evidence, such as the purchaser's file copy of the bid, his original worksheets and other data used in preparing the bid, and any other evidence which will serve to establish the mistake, the manner in which it occurred, and the bid actually intended.

(2) Where the purchaser furnishes evidence in support of an alleged mistake, the case shall be referred to the appropriate authority together with the following data:

(i) All evidence furnished by the purchaser.

(ii) A copy of the contract, including a copy of the bid.

(iii) An abstract or record of the bids received.

(iv) A written statement by the sales contracting officer setting forth—

(*a*) Specific information as to how and when the mistake was alleged or disclosed;

(*b*) A summary of the evidence submitted by the purchaser;

(*c*) His opinion whether a bona fide mistake was made in the bid and whether he was, or should have been, on constructive notice of the mistake before the award, together with the reasons or data upon which his opinion is based;

(*d*) Most recent contract price for a like item(s) involved, when sold, in what quantity, relative condition, etc.;

(*e*) Any additional evidence considered pertinent, including copies of all relevant correspondence between the sales contracting officer and the purchaser concerning the alleged mistake;

(*f*) The course of action with respect to the alleged mistake that the sales contracting officer considers proper on the basis of the evidence; and

(*g*) The status of performance and payments under the contract, including contemplated performance and payments.

(g) Nothing contained in this § 101-45.804 shall deprive the Comptroller General of his statutory right to question the correctness of any administrative determination made hereunder nor deprive any purchaser of his right to have the matter determined by the Comptroller General should he so request.

(h) Each agency shall maintain records of all administrative determinations made in accordance with this § 101-45.804, the facts involved, and the action taken in each case. A copy of the determination shall be attached to each copy of any contract rescission or reformation resulting therefrom.

(i) Where administrative determination is precluded by the limitations set forth in this section, the matter will be submitted to the Comptroller General for decision in accordance with agency procedures.

(j) Nothing contained in this § 101-45.804 prevents an agency from submitting doubtful cases to the Comptroller General.

[32 FR 16270, Nov. 29, 1967, as amended at 40 FR 59439, Dec. 24, 1975]

§ 101-45.805 Mistakes disclosed after award in negotiated sales.

When a mistake in a purchaser's quotation is not discovered until after award, the authority to correct mistakes contained in this Subpart 101-45.8 may be utilized in accordance with the limitations and procedures set forth herein.

[35 FR 12121, July 29, 1970]

Subparts 101-45.9—101-45.46—[Reserved]

Subpart 101-45.47—Reports

§ 101-45.4700 Scope of subpart.

This subpart prescribes the requirements for reporting to GSA on matters pertaining to the general subject area of disposal of personal property.

[42 FR 56027, Oct. 20, 1977]

§ 101-45.4701 Performance reports.

(a) An annual report of the sale or other disposition of surplus personal property shall be submitted in duplicate to GSA within 60 calendar days after the close of each fiscal year, using Standard Form 121, Annual Report of Utilization and Disposal of Excess and Surplus Personal Property. Section 101-43.4901-121 illustrates the SF 121 and § 101-43.4901-121-1 provides instructions for its use.

(b) An annual report of the sale or other disposition of foreign excess property shall be submitted in duplicate to the President of the U.S. Senate and to the Speaker of the U.S. House of Representatives within 90 days after the close of each fiscal year using Standard Form 365, Annual Report of Disposal of Foreign Excess Property. Section 101-43.4901-365 illustrates SF 365 and provides instructions for its use.

[42 FR 56027, Oct. 20, 1977]

Subpart 101-45.48—Exhibits

§ 101-45.4800 Scope of subpart.

This Subpart 101-45.48 exhibits information referenced in the text of Part 101-45 that is not suitable for inclusion elsewhere in that part.

[42 FR 40855, Aug. 12, 1977]

§ 101-45.4801 Instructions for the preparation of advance notice to the Department of Commerce.

1. *Transmittal of notice.* Section 101-45.304-7 provides that when the acquisition cost of personal property to be sold at one time at one place is $250,000 or more, the disposal agency shall cause a notice of each such proposed sale to be transmitted to the U.S. Department of Commerce, Room 1300, 433 West Van Buren Street, Chicago, Ill. 60607.

The notice shall be sent at as early a date as possible in advance of the sale but at least 20 days prior to the date when the bids will be opened, or, in the case of spot bid or auction sale, when the sale will be conducted. Such notice shall be transmitted by fastest mail available and shall be in synopsis form suitable for printing direct from the text so transmitted without editing or condensing.

These notices are for use of the Department of Commerce in making regular publication of a synopsis of principal proposed sales of Government personal property.

2. *Format and content of notice.*

a. *Information to be furnished.* The following information shall be provided in the order listed so as to preserve the format of the Department of Commerce publication: the name of the office which will issue the invitation; the name or title, address, and telephone number of the official from whom copies of the sales offering and other information can be obtained; a description of the property to be sold; when deemed desirable; the total estimated acquisition cost; the number of the invitation or sale; the date of the sale or bid opening, the types of sale, i.e., sealed bid, spot bid, or auction; and the location(s) of the property.

b. *Detailed requirements.* In preparing the notice to the Department of Commerce, the utmost care should be exercised in describing the types of property to be sold in order to assure interest by the maximum number of potential buyers but, at the same time, condense the information so that minimum space in the Department of Commerce publication will be required for printing. While the various kinds of property to be sold should be stated concisely, the names of important items should not be omitted. The following example is provided as a guide, both as to the order in which the information should be given, the extent to which information should be condensed or expanded, depending upon the size of the sale, and the format which, if followed, will facilitate publication without editing. Attention is specially invited to the double spacing the "hanging" indention, and the length of the line which should be approximately 65, but not to exceed 69, character spaces.

EXAMPLE

General Services Administration, Region 8, Business Service Center, Building 41, Denver Federal Center, Denver, Colo.

Scrapers, Graders, Street Sweeper, Crawler Tractor, Air Compressors, Power Units, Cement Mixer—Total acquisition cost $269,850. Invitation No. 8 UPS-65-41—Bid opening 11-30-65. Sealed bid, location above.

Motor vehicles, passenger cars and ¾-ton to 5-ton trucks, materials handling equipment, fork lift trucks and warehouse tractors, jack lift trucks, warehouse trailers, platform and box trucks, hand tools, hardware, plumbing equipment, special industry machinery, office machines, furniture, rope, cable chair and fittings, miscellaneous gasoline and water hose; burlap bags, barrier paper, pack saddles, tape and webbing, lanterns, spare parts for compressors, tractors, shovels, bulldozers, cranes, welding equipment, motor vehicles, air hammer diesel and gasoline engines—Total estimated acquisition cost $6 million; Sale No. 8UPS-A—65-44. Sale starts 12-15-65. Auction sale, location above.

[30 FR 2930, Mar. 6, 1965; 30 FR 3384, Mar. 13, 1965. Redesignated at 42 FR 40855, Aug. 12, 1977]

§ 101-45.4802 Sample format-irrevocable letter of credit.

(Name and address of Bank Issuing Letter of Credit)

(Date)

(Number of Letter of Credit and Reference)

Treasurer of the United States
Washington, D.C. 20220

Dear Madam:

We hereby establish our irrevocable credit No. —— in your favor by order and for account of (name of company submitting bid) up to an aggregate amount of $———available by demand drafts drawn on us by a representative of (specify agencies to which directed: e.g., Department of the Army, Department of the Air Force, General Services Administration). Drafts must be accompanied by a written statement of the interested agency that the amount drawn under this credit represents (1) the deposit required as a guarantee to support an acceptable bid made by (name of bidder) to purchase material from the Government, or (2) payment in full for the property. Drafts drawn under this credit must be marked "drawn under letter of credit No. —— or (name and address of issuing bank)." Unless otherwise expressly stated herein, this credit is subject to the uniform customs and practice for commercial documentary credits fixed by the 13th Congress of the International Chamber of Commerce. We hereby agree with you that the drafts drawn under and in compliance with the terms of this credit shall be duly honored on due presentation to the (name of the bank) if presented on or before ————.

Very truly yours,

(Authorized signature of bank official)

[30 FR 2930, Mar. 6, 1965. Redesignated at 42 FR 40855, Aug. 12, 1977]

§ 101-45.4803 General instructions for preparation of irrevocable letter of credit.

Use either clause (1) or (2) of § 101-45.4802, as applicable.

Some banks use language which varies from that shown in § 101-45.4912. Variations from the prescribed text may be permitted if the meaning of the letter of credit prepared by the bank is the same. Each of the paragraphs of the prescribed letter of credit is an essential part of the agreement. No paragraphs shall be added and none shall be deleted.

A letter of credit may be addressed to a specific department or agency instead of "Treasurer of the United States." Letters of credit of this type shall be addressed to the head of the agency or department, as the Secretary of the Army, or the Administrator of General Services. Should this be done, the words "Treasurer of the United States for the account of" shall be deleted from the draft drawn under the letter of credit.

Each letter of credit must be clearly irrevocable and is not acceptable if the expiration date stated therein is less than 30 days from the date of the sale at which it is used.

[30 FR 2930, Mar. 6, 1965. Redesignated at 42 FR 40855, Aug. 12, 1977]

§ 101-45.4804 Sample format—draft drawn against irrevocable letter of credit.

FORM OF DRAFT

$—— Date ——————————————

At sight pay to the order of Treasurer of the United States for the account of (specify name of department or agency). —— dollars and —— cents for value received—drawn under letter of credit No. —— of——

————————————————————————
(Name and address of issuing bank)

To ——————————————————————
(Name and address of bank)

(Name of office—finance or disbursing—and activity of department or agency by which draft is issued.)

By ——————————————
Title ——————————————
Date ——————————————

NOTE: If the letter of credit is addressed to a department or agency rather than the Treasurer, omit the words "Treasurer of the United States for the account of," and in lieu thereof insert the name of the particular department or agency or installation or office thereof.

[30 FR 2930, Mar. 6, 1965. Redesignated at 42 FR 40855, Aug. 12, 1977]

§ 101-45.4805 Sample format—transmittal letter to accompany letter of credit.

OFFICIAL LETTERHEAD

To: Name of bank (same as on L/C).
Gentlemen:

This is to certify that on ——, 196—, at a sale held by the (insert the name of the department or agency) at (insert location) the (insert name and address of company) submitted acceptable bids for property at sales price of $———.

The amount of the accompanying draft, $————, drawn under letter of credit No. —— represents (1) the deposit of —— percent of the sales price required as a guarantee to support the acceptable bid made by (insert name of company) to purchase material from the Government, or (2) payment in full for the property on which (insert name of company) submitted acceptable bids.

(Name of office—finance or disburing—and activity of department or agency to which check is to be forwarded.)

By ——————————————
Title ——————————————
Date ——————————————

NOTE: Strike out the clause in the second paragraph which is not applicable.

[30 FR 2930, Mar. 6, 1965. Redesignated at 42 FR 40855, Aug. 12, 1977]

§ 101-45.4806 Outline for preparation of explanatory statement relative to negotiated sales.

The following outline shall be used for the preparation of explanatory statements relative to negotiated sales:

EXPLANATION STATEMENT OF PROPOSED NEGOTIATED DISPOSAL OF SURPLUS PERSONAL PROPERTY SUBMITTED PURSUANT TO THE PROVISIONS OF SECTION 203(e)(6) OF THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949, 63 STAT. 386, AS AMENDED (40 U.S.C. 484(c)(6))

Description of property (including quantity and condition).

Use of property (an indication of the use of the property made by the Government).

Location.

Reported excess by (name of agency and date).

Excess and donation screening (show the extent of screening and results).

Acquisition cost and date (if not known, estimate and so indicate).

Income (all income known to the holding agency, if any received by the Government for use of the property).

Estimated fair market value (including date of estimate and name of estimator).

Proposed disposal price.

Proposed purchaser (name and address).

Intended use (state the intended use of the property by the proposed purchaser).

Justification (a narrative statement containing complete justification for the proposed sale and other pertinent facts involved in the Government's decision to sell by negotiation).

[31 FR 5001, Mar. 26, 1966. Redesignated at 42 FR 40855, Aug. 12, 1977]

§ 101-45.4807 Equal Opportunity clause.

EQUAL OPPORTUNITY

The following clause is applicable unless this contract is exempt under the rules, regulations, and relevant orders of the Secretary of Labor (41 CFR, ch. 60). Exemptions include contracts and subcontracts (i) not exceeding $10,000 and (ii) where no appreciable amount of work is to be done by the Contractor:

During the performance of this contract, the Contractor agrees as follows:

(a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this nondiscrimination clause.

(b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(c) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency Contracting Officer, advising the labor union or workers' representative of the Contractor's commitments under section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended, in whole or in part, and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor or as otherwise provided by law.

(g) The Contractor will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* That in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

[36 FR 8567, May 8, 1971. Redesignated at 42 FR 40855, Aug. 12, 1977]

§ 101-45.4808 State health agencies.

State Health Agencies (for Bedding and Upholstered Furniture Information).

ALABAMA

Director, Division of Environmental Health,
State Office Building, Montgomery, AL 36104.

ALASKA

Chief, Environmental Health Section, Division of Public Health, Department of
Health and Social Services, Pouch H 01,
Juneau, AK 99811.

ARIZONA

Arizona Department of Health Services,
Bureau of Sanitation, Bedding Section,
411 North 24th Street, Phoenix, AZ 85008.

ARKANSAS

Bureau of Public Health Engineering, Arkansas Department of Health, 13th Floor,
Donaghey Building, 7th and Main Streets,
Little Rock, AR 72201.

CALIFORNIA

Chief, Bureau of Home Furnishings, State
of California, Department of Home Furnishings, 3401 La Grande Boulevard, Sacramento, CA 95823.

COLORADO

Chief, Consumer Protection Section, State
of Colorado, Department of Health, 4210
East 11th Avenue, Denver, CO 80220.

CONNECTICUT

Commissioner, Department of Consumer
Protection, Division of Bedding and Upholstered Furniture, 165 Capitol Avenue,
Hartford, CT 06115.

DELAWARE

Chief, Bureau of Environmental Health, Department of Health and Social Services,
Division of Public Health, Post Office Box
637, Dover, DE 19901.

DISTRICT OF COLUMBIA

Environmental Health Scientist, Administrator, Room 733, Environmental Health

Administration, 801 North Capitol Street, NE., Washington, DC 20001.

FLORIDA

Chief, Department of Health and Rehabilitative Services, Consumer Drugs and Devices Control Section, Post Office Box 210, Jacksonville, FL 32201.

GEORGIA

Director, Consumer Protection Field Forces, Georgia Department of Agriculture, 19 Martin Luther King Drive, Room 308, Atlanta, GA 30334.

HAWAII

Chief, Sanitation Branch, State Department of Health, Honolulu, HI 96813.

IDAHO

Chief, Idaho Department of Health and Welfare, Division of Environment, Milk and Food Section, Statehouse, Boise, ID 83720.

ILLINOIS

No need to notify.

INDIANA

Supervisor, Sanitary Bedding Section, Division of Weights and Measures, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, IN 46206.

IOWA

Secretary, Iowa State Department of Agriculture, State Capitol Building, Des Moines, IA 50319.

KANSAS

Chief, Food and Drug Division, Kansas State Department of Health and Environment, State Office Building, Topeka, KS 66620.

KENTUCKY

Commissioner, Environmental Sanitation Branch, Division of Consumer Health Protection, Health Services Building, 275 East Main Street, Frankfort, KY 40601.

LOUISIANA

Director, Bedding and Upholstered Furniture Division, Louisiana Health and Human Resources Administration, Post Office Box 60630, New Orleans, LA 70160.

MAINE

Director, Department of Manpower Affairs, Maine Bureau of Labor, State Office Building, Augusta, ME 04333.

MARYLAND

No need to notify.

MASSACHUSETTS

Director, Division of Food and Drugs, Massachusetts Department of Public Health, Statehouse, Boston, MA 02133.

MICHIGAN

Chief, Michigan Department of Public Health, Division of Community Environment Health, Consultation, Evaluation & Training Section, 3500 North Logan Street, Post Office Box 30035, Lansing, MI 48909.

MINNESOTA

Chief, Section of Hotels, Resorts & Restaurants, Minnesota Department of Health, 77 South East Delaware Street, Minneapolis, MN 55440.

MISSISSIPPI

Director, Division of Sanitary Engineering, Mississippi State Board of Health, Post Office Box 1700, Jackson, MS 39205.

MISSOURI

Director, Bureau of Community Sanitation, Department of Social Services, Missouri Division of Health, Broadway State Office Building, Post Office Box 570, Jefferson City, MO 65101.

MONTANA

Director, Food and Consumer Safety Bureau, Environmental Sciences Division, Montana Department of Health and Environmental Science, Helena, MT 59601.

NEBRASKA

Chief, Division of Housing and Environmental Health, 301 Centennial Mall South, Post Office Box 95007, Lincoln, NE 68509.

NEVADA

Chief, Consumer Health Protection Services, Room 103, Kinkead Building, Capitol Complex, Carson City, NV 89710.

NEW HAMPSHIRE

No need to notify.

NEW JERSEY

Director, Division of Environmental Health, New Jersey State Department of Health and Social Services, John Fitch Plaza, Post Office Box 1540, Trenton, NJ 08625.

NEW MEXICO

Director, EIA Legal Section, State of New Mexico, Health and Social Services Department, Post Office Box 2348, Santa Fe, NM 87503.

NEW YORK

Director, Division of Licensing Services, Department of State, 270 Broadway, New York, NY 10007.

NORTH CAROLINA

Head, Solid Waste and Vector Control Branch, Sanitary Engineering Section, Post Office Box 2091, Raleigh, NC 27602.

NORTH DAKOTA

Chief, North Dakota State Department of Health, Division of Environmental Engineering Bedding Program, 1200 Missouri Avenue, Bismarck, ND 58505

OHIO

Chief, Department of Industrial Relations, Division of Bedding and Upholstered Furniture Inspection, Post Office Box 825, Columbus, OH 43216.

OKLAHOMA

Head, Consumer Information and Product Safety Division, Consumer Protection Service, Oklahoma State Department of Health, Post Office Box 53551, Oklahoma City, OK 73105.

OREGON

Program Supervisor, Department of Human Resources, Health Division, Post Office Box 231, Portland, OR 97207.

PENNSYLVANIA

Chief, Division of Bedding and Upholstery, Department of Labor and Industry, Seventh and Forster Streets, Harrisburg, PA 17120.

PUERTO RICO

Director, Program of Environmental Health, Puerto Rico Department of Health, Ponce de Leon Avenue 1306, Box 9342, Santurce, PR 00908.

RHODE ISLAND

Chief, Division of Upholstery, State of Rhode Island Department of Business Regulation, 49 Westminster Street, Room 420, Providence, RI 02903.

SOUTH CAROLINA

Consultant, Bureau of Environmental Sanitation, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201.

SOUTH DAKOTA

Director, Division of Sanitary Engineering, South Dakota Department of Health, Joe Foss Building, Pierre, SD 57501.

TENNESSEE

Director, Food and Drug Division, Tennessee Department of Agriculture, Post Office Box 40627, Melrose Station, Nashville, TN 37204.

TEXAS

Director, Bedding-Law Division, Texas Department of Health Resources, Austin, TX 78756.

UTAH

State Chemists Office, Utah Department of Agriculture, Laboratory Building, State Capitol, Salt Lake City, UT 84114.

VERMONT

No need to notify.

VIRGINIA

Supervisor, Bedding and Upholstered Furniture, Department of Health, 109 Governor Street, Richmond, VA 23219.

VIRGIN ISLANDS

Director, Division of Environmental Health, Virgin Islands Department of Health, Post Office Box 1442, Charlotte Amalie, VI 00801.

WASHINGTON

Supervisor, Department of Social and Health Services, Food and Housing Section, Attn: Furniture and Bedding Program (Mailstop)-MS-LD-11, Olympia, WA 98504.

WEST VIRGINIA

Director, Consumer Protection, West Virginia Department of Labor, State Capitol, 1800 Washington Street East, Charleston, WV 25305.

WISCONSIN

Chief Engineer, Safety and Buildings Division, Wisconsin Department of Industry, Labor and Human Relations, 201 East Washington Avenue, Madison, WI 53707.

WYOMING

Director, Division of Markets and Industry, Wyoming State Department of Agriculture, 308 Capitol, Cheyenne, WY 82001.

[43 FR 26579, June 21, 1978]

§ 101-45.4809 State radiation control agencies.

ALABAMA

Director, Division of Radiological Health, Alabama State Department of Public

Health, State Office Building, Montgomery, AL 36130.

ALASKA

Commissioner, Alaska Department of Environmental Conservation, Pouch O, Juneau, AK 99801.

ARIZONA

Executive Director, Arizona, Atomic Energy Commission, 1601 West Jefferson Street, Phoenix, AZ 85007.

ARKANSAS

Director, Division of Radiological Health, Arkansas Department of Health, 4815 West Markham Street, Little Rock, AR 72201.

CALIFORNIA

Chief, Radiological Health Section, California Department of Health, Building No. 8, 714 P Street, Sacramento, CA 95814.

COLORADO

Director, Division of Occupational and Radiological Health, Colorado Department of Health, 4210 East 11th Avenue, Denver, CO 80220.

CONNECTICUT

Assistant Director of Compliance (Ionizing Radiation), Connecticut Department of Environmental Protection, State Office Building, Hartford, CT 06115.

DELAWARE

Program Director, Office of Radiation Safety Division of Public Health, Delaware Department of Health and Social Services, Jesse S. Cooper Memorial Building, Capitol Square Dover, DE 19901.

DISTRICT OF COLUMBIA

Chief, Bureau of Institutional Hygiene and Radiological Health, Bureau of Public Health Engineering, Department of Environmental Services, DC General Hospital, Box 97, Washington, DC 20003.

FLORIDA

Administrator, Radiological and Occupational Health Section, Division of Health, Florida Department of Health and Rehabilitative Services, P.O. Box 210, Jacksonville, FL 32201.

GEORGIA

Director, Radiological Health Unit, Georgia Department of Human Resources, State Office Building, Atlanta, GA 30334.

HAWAII

Chief, Noise and Radiation Branch, Hawaii Department of Health, P.O. Box 3378, Honolulu, HI 96801.

IDAHO

Chief, Radiation Control Section, Idaho Department of Health and Welfare, Statehouse, Boise, ID 83720.

ILLINOIS

Chief, Division of Radiological Health, Illinois Department of Public Health, 535 West Jefferson Street, Springfield, IL 62761.

INDIANA

Director, Division of Radiological Health, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, IN 46206.

IOWA

Chief, Hazardous Substance Section, Iowa State Department of Environmental Quality, 3920 Delaware Street, P.O. Box 3326, Des Moines, IA 50316.

KANSAS

Director, Radiation Control Program, Kansas Department of Health and Environment, Forbes AFB, Building 740, Topeka, KS 66620.

KENTUCKY

Director, Radiological Health Program, Kentucky State Department for Human Resources, Capitol Annex, Frankfort, KY 40601.

LOUISIANA

Director, Division of Radiation Control, Louisiana Board of Nuclear Energy, P.O. Box 44033, Capitol Stations, Baton Rouge, LA 70804.

MAINE

Commissioner, Maine Department of Health and Welfare, State House, Augusta, ME 04330.

MARYLAND

Chief, Division of Radiation Control, Maryland Department of Health and Mental Hygiene, State Office Building, 301 West Preston Street, Baltimore, MD 21201.

MASSACHUSETTS

Assistant to the Commissioner (Radiological Health), Massachusetts Department of Public Health, 80 Boylston Street, Room 940, Boston, MA 02116.

MICHIGAN

Chief, Radiation Division, Michigan Department of Public Health, 3500 North Logan Street, Lansing, MI 48914.

MINNESOTA

Chief, Section of Radiation Control, Minnesota Department of Health, 717 Delaware Street, SE, Minneapolis, MN 55440.

MISSISSIPPI

Supervisor, Radiological Health Unit, Mississippi State Board of Health, P.O. Box 1700, Jackson, MS 39205.

MISSOURI

Director, Bureau of Radiological and Occupational Health, Missouri Division of Health, State Office Building, Jefferson City, MO 65101.

MONTANA

Chief, Radiological and Occupational Health Program, Montana Department of Health and Environmental Sciences, Cogswell Building, Helena, MT 59601.

NEBRASKA

Director, Division of Radiological Health, Nebraska Department of Health, Lincoln Building, 1003 O Street, Lincoln, NE 68508.

NEVADA

Supervisor, Radiological Health, Nevada Department of Health and Welfare, 201 South Fall Street, Carson City, NV 89701.

NEW HAMPSHIRE

Director, State Radiation Control Agency, New Hampshire Department of Health and Welfare, State Laboratory Building, Hazen Drive, Concord, NH 03301.

NEW JERSEY

Chief, Bureau of Radiation Protection, New Jersey Department of Environmental Protection, P.O. Box 1390, John Fitch Plaza, Trenton, NJ 08625.

NEW MEXICO

Chief, Radiological and Occupational Health and Air Quality Control Section, New Mexico Environmental Improvement Agency, P.O. Box 2348, Santa Fe, NM 87501.

NEW YORK

Director, Bureau of Radiological Health, New York State Department of Health, 845 Central Avenue, Albany, NY 12206.

NORTH CAROLINA

Head, Radiation Protection Branch, North Carolina Department of Human Resources, P.O. Box 12200, Raleigh, NC 27605.

NORTH DAKOTA

Director, Division of Environmental Engineering, Radiological Health Program, North Dakota State Department of Health, Capitol Building, Bismark, ND 58501.

OHIO

Engineer-in-Charge, Radiological Health Unit, Ohio Department of Health, P.O. Box 118, Columbus, OH 43216.

OKLAHOMA

Chief, Occupational and Radiological Health Service, Oklahoma Department of Health, N.E. 10th and Stonewall Streets, Oklahoma City, OK 73105

OREGON

Director, Radiological Control Service, Oregon State Health Division, P.O. Box 231, Portland, OR 97207.

PENNSYLVANIA

Director, Bureau of Radiological Health, Pennsylvania Department of Environmental Resources, P.O. Box 2063, Harrisburg, PA 17120.

PUERTO RICO

Director, Radiological Health Program, Puerto Rico Department of Health, 1306 Ponce de Leon Avenue, Stop 16, Santurce, PR 00908.

RHODE ISLAND

Director of Health, Rhode Island Department of Health, Health Department Building, Davis Street, Providence, RI 02908.

SOUTH CAROLINA

Director, Division of Radiological Health, South Carolina Department of Health and Environmental Control, 137 J. Marion Sims Building, Columbia, SC 29201.

SOUTH DAKOTA

Secretary of Health, South Dakota Department of Health, State Capitol, Pierre, SD 57501.

TENNESSEE

Director, Division of Occupational and Radiological Health, Tennessee Department of Public Health, 727 Cordell Hull Building, Sixth Avenue, North, Nashville, TN 37219.

TEXAS

Director, Division of Occupational Health and Radiation Control, Texas Department of Health, 1100 West 49th Street, Austin, TX 78756.

UTAH

Chief, Radiation and Occupational Health Section, Utah Division of Health, 44 Medical Drive, Salt Lake City, UT 84113.

VERMONT

Director, Division of Occupational Health, Radiological Health Program, Vermont Department of Health, P.O. Box 607, Barre, VT 05641.

VIRGINIA

Director, Bureau of Industrial Hygiene and Radiological Health, Virginia Department of Health, 109 Governor Street, Richmond, VA 23219.

VIRGIN ISLANDS

Director, Division of Environmental Health, Virgin Islands Department of Health, Charlotte Amalie, St. Thomas, VI 00801.

WASHINGTON

Chief, Radiation Chemical and Physical Hazards Section, Washington Department of Social and Health Services, P.O. Box 1788, Olympia, WA 98504.

WEST VIRGINIA

Director, Bureau of Industrial Hygiene, Radiological Health Program, West Virginia Department of Health, 1800 East Washington Street, Charleston, WV 25305.

WISCONSIN

Chief, Radiation Protection Section, Wisconsin Department of Health and Social Services, P.O. Box 309, Madison, WI 53701.

WYOMING

Radiological Health Specialist, Wyoming Department of Health and Social Services, New State Office Building, Cheyenne, WY 82001.

[42 FR 40856, Aug. 12, 1977]

Subpart 101-45.49—Illustrations of Forms

Source: 42 FR 40857, Aug. 12, 1977, unless otherwise noted.

Note: The forms illustrated in Subpart 101-45.49 are filed as part of the original document.

§ 101-45.4900 Scope of subpart.

This subpart illustrates forms prescribed or available for use in connection with subject matter covered in Part 101-45.

§ 101-45.4901 Standard forms.

(a) Standard forms illustrated in this section show their text, format, and arrangement, and provide a ready source of reference.

(b) Standard forms illustrated in this § 101-45.4901 may be obtained by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office providing support to the requesting activity.

§ 101-45.4901-28 Standard Form 28, Affidavit of Individual Surety.

§ 101-45.4901-97 Standard Form 97, The United States Government Certificate of Release of a Motor Vehicle.

§ 101-45.4901-97-1 Instructions for use of Standard Form 97.

§ 101-45.4901-97A Standard Form 97A, Agency Record Copy of the United States Government Certificate of Release of a Motor Vehicle.

§ 101-45.4901-114 Standard Form 114, Sale of Government Property—Bid and Award.

Note: The form illustrated in this § 101-45.4901-114 is filed with the original document and does not appear in this volume.

[45 FR 37693, June 4, 1980]

§ 101-45.4901-114A Standard Form 114A, Sale of Government Property—Item Bid Page—Sealed Bid.

§ 101-45.4901-114B Standard Form 114B, Sale of Government Property—Item Bid Page—Sealed Bid.

§ 101-45.4901-114C Standard Form 114C, Sale of Government Property—General Sale Terms and Conditions.

§ 101-45.4901-114C-1 Standard Form 114C-1, Sale of Government Property—Special Sealed Bid Conditions.

§ 101-45.4901-114C-2 Standard Form 114C-2, Sale of Government Property—Special Sealed Bid—Term Conditions.

§ 101-45.4901-114C-3 Standard Form 114C-3, Sale of Government Property—Special Spot Bid Conditions.

§ 101-45.4901-114C-4 Standard Form 114C-4, Sale of Government Property—Special Auction Conditions.

§ 101-45.4901-114D Standard Form 114D, Sale of Government Property—Amendment of Invitation for Bids/Modification of Contract.

§ 101-45.4901-114E Standard Form 114E, Sale of Government Property—Negotiated Sales Contract.

NOTE: The form illustrated in this § 101-45.4901-114E is filed with the original document and does not appear in this volume.

[45 FR 37693, June 4, 1980]

§ 101-45.4901-114F Standard Form 114F, Sale of Government Property—Item Bid Page—Spot Bid or Auction.

§ 101-45.4901-126 Standard Form 126, Report of Personal Property for Sale.

NOTE: The form illustrated in this § 101-45.4901-126 is filed with the original document and does not appear in this volume.

[45 FR 37693, June 4, 1980]

§ 101-45.4901-126A Standard Form 126A, Report of Personal Property for Sale (Continuation Sheet).

§ 101-45.4901-150 Standard Form 150, Deposit Bond—Individual Invitation, Sale of Government Personal Property.

§ 101-45.4901-151 Standard Form 151, Deposit Bond—Annual, Sale of Government Personal Property.

§ 101-45.4902 GSA forms.

(a) GSA forms in this section show their text, format, and arrangement and provide a ready source of reference.

(b) GSA forms in this section may be obtained initially from the General Services Administration (3FNDD), Union and Franklin Streets Annex, Building 11, Alexandria, VA 22314. Agency regional or field offices should submit future requirements to their Washington headquarters office which will forward consolidated annual requirements to the General Services Administration (BRO), Washington, D.C. 20405.

§ 101-45.4902-27 GSA Form 27, Notice of Award (Sale of Government-Owned Personal Property).

§ 101-45.4902-27A GSA Form 27A, Notice of Award—Continuation.

§ 101-45.4903 Optional forms.

Optional forms illustrated in this § 101-45.4903 show their text, format, and arrangement and provide a ready source of reference. The numbers in this subsection correspond with the Optional form numbers. Optional forms illustrated in this § 101-45.4903 may be obtained by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office providing support to the requesting activity.

§ 101-45.4903-15 Optional Form 15, poster, Sale of Government Property.

§ 101-45.4903-16 Optional Form 16, Sales Slip, Sale of Government Personal Property.

§ 101-45.4903-20 Optional Form 20, Notice to Surety—Deposit Bond—Annual Sale of Government Personal Property.

PART 101-46—UTILIZATION AND DISPOSAL OF PERSONAL PROPERTY PURSUANT TO EXCHANGE/SALE AUTHORITY

Sec.
101-46.000 Scope of part.
101-46.001 Definitions of terms.
101-46.001-1 Acquire.

Subpart 101-46.1—[Reserved]

Subpart 101-46.2—Authorization

101-46.201 General authorization.
101-46.202 Restrictions and limitations.

Subpart 101-46.3—Transfer and Exchange Between Federal Agencies

101-46.301 Agency responsibility.
101-46.302 Reimbursement.

Subpart 101-46.4—Disposal

101-46.400 Scope of subpart.
101-46.400-1 Automatic data processing equipment.
101-46.401 Dangerous property and combat materiel.
101-46.402 Solicitation of bids.
101-46.403 Sales methods and procedures.
101-46.404 Availability of proceeds of sale.
101-46.405 Books and periodicals.
101-46.406 Records.
101-46.407 Reports.

Subparts 101-46.5—101-46.47—[Reserved]

Subpart 101-46.48—Exhibits

101-46.4800 Scope of subpart.
101-46.4801 Property ineligible for exchange/sale.
101-46.4802 Exchange/sale category list.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

SOURCE: 31 FR 4997, Mar. 26, 1966, unless otherwise noted.

§ 101-46.000 Scope of part.

This part prescribes policies and methods governing the use by executive agencies of the exchange/sale authority of section 201(c) of the Federal Property and Administrative Services Act of 1949, 68 Stat. 384, as amended (40 U.S.C. 481(c) hereinafter referred to as the "Property Act"). It is applicable to U.S. Government-owned property located within and outside of the United States.

§ 101-46.001 Definitions of terms.

For the purpose of this Subchapter H the following terms shall have the meanings set forth in this section.

[41 FR 22274, June 2, 1976]

§ 101-46.001-1 Acquire.

"Acquire" means procure, purchase, or obtain in any manner, except by lease, including transfer, or manufacture, or production at Government-owned or operated plants or facilities.

[41 FR 22274, June 2, 1976]

Subpart 101-46.1—[Reserved]

Subpart 101-46.2—Authorization

§ 101-46.201 General authorization.

Subject to the provisions of this Part 101-46, in acquiring replacement personal property within the United States or elsewhere, similar items may be exchanged or sold and executive agencies are authorized to apply the exchange allowance or the proceeds from sale in such cases in whole or in part payment for the replacement property acquired.

§ 101-46.202 Restrictions and limitations.

(a) The application of exchange allowances or proceeds of sale in whole or part payment for personal property acquired is authorized only when all the following conditions apply:

(1) The items sold or exchanged are similar to the items acquired (see § 101-46.202(b) for explanation of the word "similar");

(2) The items sold or exchanged (with the exception of automatic data processing equipment to be exchanged by GSA) are not excess, and the items acquired are needed in the conduct of approved programs;

(3) One item is to be acquired to replace one similar item.

(i) The only exceptions to the one-for-one rule shall be:

(*a*) In the event that a lesser or greater number of items must be acquired to perform all or substantially all of the tasks in which the old items would otherwise be used; and

(*b*) In the case of parts or containers.

(ii) Detailed cross reference between old and new items shall not be required. In the absence of such cross reference, however, sufficient data shall be made a matter of record to establish that the items acquired were similar to the items exchanged or sold, that any exchange allowances or proceeds of sale applied in whole or part payment for property acquired were in fact available for such application, and that the transaction was otherwise in accordance with the provisions of this § 101-46.202. The internal audit group of each Federal agency having exchange/sale transactions is responsible for ensuring that the foregoing provisions are observed. In addition, the data of record shall be made available upon request to the General Accounting Office;

(4) There has been at the time of exchange or sale (or at time of acquisition if it precedes the sale) a written administrative determination to apply the exchange allowance or proceeds of sale in acquiring property in accordance with this Subpart 101-46.2; and

(5) The transaction will foster the economical and efficient accomplishment of an approved program.

(b) The item of personal property to be exchanged or sold and the item to be acquired shall be deemed similar when:

(1) Both fall within any one of the categories listed in § 101-46.4802; or

(2) In the case of personal property not falling within the categories of § 101-46.4802, the item to be acquired is designed and constructed for the same specific purpose as the item to be replaced; or

(3) Both constitute containers for items which are similar within the meaning of § 101-46.202(b)(2); or

(4) Both constitute parts for items which are similar within the meaning of § 101-46.202 (b)(1) or § 101-46.202 (b)(2).

(c) Items falling within any of the Federal supply classification groups enumerated in § 101-46.4801 shall not be eligible for handling under the provisions of this Part 101-46.

(d) This Part 101-46 shall not be construed to authorize:

(1) The acquisition of personal property by an executive agency when such acquisition is not otherwise authorized by law.

(2) The acquisition of personal property by an executive agency in contravention of:

(i) Any restriction upon the procurement of a commodity or commodities, or

(ii) Any replacement policy or standard, prescribed by the President, the Congress, or by the Administrator of General Services.

(3) The acquisition of personal property otherwise than under a consolidated purchasing or stores program or Federal Supply schedule contract where procurement under such program or contract is required by regulations or other directives prescribed by the Administrator of General Services. However, an executive agency acquiring an item or items under and in accordance with such program or contract may apply the exchange allowance for or proceeds from the sale of similar items in whole or part payment for the items being acquired.

(4) Even though otherwise eligible, the sale, transfer, or exchange of excess property (other than automatic data processing equipment to be exchanged by GSA) or surplus property in connection with the acquisition of personal property.

(5) The sale, transfer, or exchange of strategic and critical materials, unless such materials at any one location are in lots of less than the minimum quantities specified in Part 101-14, and the owning agency determines that there is no reasonable prospect of accumulating quantities specified in said part within the time specified therein.

(6) The sale, transfer, or exchange of Nuclear Regulatory Commission-controlled materials (as defined in § 101-43.001-1) except in accordance with applicable regulations of the Nuclear

Regulatory Commission. (See 10 CFR Parts 30, 40, and 70.)

(7) The sale or exchange of controlled substances, except in accordance with Part 101-45.

(8) The sale of personal property in new or unused condition in connection with the acquisition of personal property.

(9) The sale, transfer, or exchange of scrap materials in connection with the acquisition of personal property except in the case of scrap gold for fine gold.

(10) Even though otherwise eligible, the sale or exchange of property which was originally acquired from another agency as excess or surplus, unless such property has been placed in use by the acquiring agency for at least one year.

(e) This Part 101-46 does not apply to materials in the national stockpile (50 U.S.C. 98-98h), the supplemental stockpile (7 U.S.C. 1704(b)), or the Defense Production Act inventory (50 U.S.C. App. 2093).

[31 FR 4997, Mar. 26, 1966, as amended at 33 FR 20043, Dec. 31, 1968; 34 FR 7241, May 2, 1969; 37 FR 16677, Aug. 18, 1972; 38 FR 8059; Mar. 28, 1973; 41 FR 22274, June 2, 1976; 43 FR 26580, June 21, 1978]

Subpart 101-46.3—Transfer and Exchange Between Federal Agencies

§ 101-46.301 Agency responsibility.

Executive agencies having property other than automatic data processing equipment (ADPE) that is determined to be available for exchange or sale under this Part 101-46 shall, to the fullest extent practicable or economical and prior to any disposal action, solicit Federal agencies known to use or distribute this property and arrange for transfers thereto, except that no attempt need be made to obtain further utilization of property that is eligible for replacement in accordance with replacement standards prescribed in Subpart 101-25.4. GSA will solicit other agency requirements for ADPE determined to be available for exchange or sale subsequent to reporting in accordance with Subpart 101-36.47. Executive agencies may also exchange similar property with other Federal agencies (including the Senate, the House of Representatives, the Architect of the Capitol and any activities under the Architect's direction, the District of Columbia, and mixed-ownership Government corporations).

[44 FR 55377, Sept. 26, 1979]

§ 101-46.302 Reimbursement.

Transfers of personal property under this Subpart 101-46.3 shall be made upon such terms as shall be agreed to by the Federal agencies concerned (including the organizations specified in § 101-46.301). However, agencies offering property for transfer for further utilization within the Government shall not in any case require reimbursement of an amount greater than the best estimate of the gross proceeds if the property were to be sold on a competitive bid basis, or the dollar value offered on a trade-in basis. Funds shall be transferred in accordance with such terms, and the exchange allowance or other proceeds of transfer shall be applied in whole or part payment for personal property acquired. Funds transferred as representing the difference in value between items which are exchanged shall be deposited to miscellaneous receipts by the transferee agency unless (a) other disposition is authorized by law or (b) acquisition of items in addition to the items received in exchange is required for the performance of the tasks or operations in which similar items exchanged would otherwise have been used.

Subpart 101-46.4—Disposal

§ 101-46.400 Scope of subpart.

This Subpart 101-46.4 prescribes the policies and methods governing the actual exchange or sale of property which qualifies in accordance with Subparts 101-46.1 and 101-46.2. Any such property to be sold will be reported to the authorized sales office for that purpose as provided in Part 101-45, the same as for surplus personal property but identified as replacement property, subject to the same exemptions and exceptions on reporting as otherwise would be applicable to surplus personal property.

§ 101-46.400-1 Automatic data processing equipment.

Automatic data processing equipment (ADPE) that meets the reporting criteria set forth in Subparts 101-36.3 and 101-36.47 and qualifies accordance with Subpart 101-46.2 shall be reported for possible reutilization among Federal agencies as provided in Subpart 101-36.47. If not transferred for other reutilization among Federal agencies, ADPE may be disposed of as provided in this Subpart 101-46.4.

[44 FR 55378, Sept. 26, 1979]

§ 101-46.401 Dangerous property and combat materiel.

(a) No property which is dangerous to public health or safety shall be exchanged or sold pursuant to this Subpart 101-46.4 without first rendering such property innocuous or providing adequate safeguards therefor.

(b) No combat materiel shall be exchanged or sold pursuant to this Subpart 101-46.4 without first demilitarizing such property if such demilitarization is found by a duly authorized official of the executive agency concerned to be in the best interest of public health, safety, or security. Such demilitarization may include rendering such property innocuous, stripping from it any confidential or secret characteristics, or making it unfit for military use. Demilitarization of property to be exchanged or sold shall be accomplished in such manner as to preserve so far as possible any civilian utility or commercial value of the property.

§ 101-46.402 Solicitation of bids.

The objective shall be to obtain the maximum return to the Government from property sold or exchanged. Both cash and exchange (trade-in) bids shall be solicited in each instance, except that:

(a) Items may be exchanged without solicitation of bids when the personal property sought to be acquired may be procured without solicitation of bids under applicable laws and regulations.

(b) Cash bids needs not be solicited when the items sought to be sold or exchanged may be disposed of without solicitation of bids under applicable laws and regulations.

(c) Only one type of bid (cash or trade-in) need be solicited when recent solicitation for identical items has produced only that type of offer under circumstances indicating the futility of further advertising for any other type of offer. Since market conditions frequently change, tests should be made at reasonable intervals to determine the use of the authority contained in this § 101-46.402(c).

(d) Only one type of bid (cash or trade-in) need be solicited when solicitation for the other type of bid has proven clearly ineffective in reducing the cost of the acquisition; e.g., by reason of the commercial practice with respect to exchange or sale of such items. Tests should be made at reasonable intervals to determine the use of the authority contained in this § 101-46.402(d).

(e) Only one type of bid (cash) need be solicited when used vehicles are disposed of for replacement purposes under a consolidated vehicle purchase program.

§ 101-46.403 Sales methods and procedures.

(a) The methods of sale, terms and conditions of sale, and forms prescribed in § 101-45.304 shall also be used in the sale of property being replaced, except that circumstances permitting negotiated sales of surplus personal property as prescribed in § 101-45.304-2 are not applicable to the sale of property being replaced. Section 3709, Revised Statutes, as amended (41 U.S.C. 5), is applicable to such sales.

(b) While it is the policy to sell exchange/sale property after publicly advertising for bids, such property also may be sold by negotiation, subject to obtaining such competition as is feasible, when:

(1) The reasonable value involved in any one case does not exceed $500, or

(2) Otherwise authorized by law.

(c) All invitations for bids containing only exchange/sale property shall include the following statement: "This property is being offered in accordance with the exchange/sale provisions of section 201(c) of the Federal Property and Administrative Services Act of 1949, 63 Stat. 384 (40 U.S.C. 481(c))." When an invitation for bids includes both surplus and exchange/sale property, the foregoing statement will be modified to identify the items in the invitation that are exchange/sale property.

[31 FR 4997, Mar. 26, 1966, as amended at 32 FR 8145, June 7, 1967]

§ 101-46.404 Availability of proceeds of sale.

Except as otherwise authorized by law, proceeds from sales of personal property disposed of pursuant to this Subpart 101-46.4 shall be accounted for in accordance with General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies, Title 7, Fiscal Procedures, section 15.4. The requirements for a written administrative determination to establish that a bona fide replacement is involved are set forth in § 101-46.202(a)(4). Procedures for the application of the proceeds from sale for the acquisition of similar items follow:

(a) *Sale of property before the purchase of replacement property.* (1) When the property to be replaced is sold before the acquisition of the replacement property, the proceeds of such sales will be credited to the agency's budget clearing account, "————F3875."

(2) The proceeds of such sales will be available for obligation for the acquisition of similar replacement items of personal property during the fiscal year in which the sale is made and for one fiscal year thereafter.

(3) When the acquisition of the replacement property is subsequently made and the obligation incurred, Standard Form 1081, Voucher and Schedule of Withdrawals and Credits, or other approved form should be processed to charge the budget clearing account, "——F3875", and credit the appropriation charged for the replacement. For audit purposes, the voucher must include or be supported by sufficient evidence to show that the reimbursement to the appropriation is applicable to the obligation incurred for the acquisition of similar replacement personal property.

(4) Proceeds of sales related to personal property for which an obligation for replacement has not been incurred during the period of availability following the date of sale, or sales proceeds which for other reasons an agency elects not to apply to replacement costs, shall be deposited to miscellaneous receipts account "2649 Proceeds from sale of equipment and other personal property not otherwise classified," unless other disposition is authorized by law.

(5) If it is determined at the time of collection that sales proceeds will not be applied to replacement acquisitions, the deposit should be made directly to the miscellaneous receipts account.

(b) *Sales of property after the purchase of replacement property.* When the replaced property is sold after the acquisition of the replacement property, the proceeds of such sale may be deposited as a direct reimbursement credit to the appropriation previously charged for the replacement of similar items of personal property.

[31 FR 4997 Mar. 26, 1966, as amended at 41 FR 38167, Sept. 9, 1976]

§ 101-46.405 Books and periodicals.

Notwithstanding any other provision of this Part 101-46, executive agencies may exchange, without monetary appraisal or detailed listing or reporting, books and periodicals in their libraries not needed for permanent use for other books and periodicals.

§ 101-46.406 Records.

Executive agencies shall prepare and maintain such records as will show full compliance with the provisions of this Part 101-46.

§ 101-46.407 Reports.

Within 90 calendar days after the close of each fiscal year, executive agencies shall submit a summary report in letter form on the transactions made under this part during the fiscal year except for transactions involving books and periodicals. Negative reports are required. Total acquisition cost for property exchanged and total acquisition cost for property sold shall be furnished by two-digit Federal Supply Classification Groups. These data shall be separated into two categories: (a) The States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands; and (b) all other areas of the world. The summaries shall not include any property that was initially designated for exchange/sale but which was transferred for further Federal utilization. Reports shall be addressed to the General Services Administration (FW), Washington, D.C. 20406. The report required by this regulation has been assigned Interagency Reports Control Number 1528-GSN-AN as set forth in Subpart 101-11.11 of this chapter.

[41 FR 22274, June 2, 1976]

Subparts 101-46.5—101-46.47—[Reserved]

Subpart 101-46.48—Exhibits

SOURCE: 42 FR 40858, Aug. 12, 1977, unless otherwise noted.

§ 101-46.4800 Scope of subpart.

This Subpart 101-46.48 exhibits information referenced in the text of Part 101-46 that is not suitable for inclusion elsewhere in that part.

§ 101-46.4801 Property ineligible for exchange/sale.

Items which are found in any of the Federal supply classification groups listed below are not eligible for handling under the provisions of this Part 101-46.

FEDERAL SUPPLY CLASSIFICATION GROUP NUMBER AND IDENTIFICATION

10 Weapons.
11 Nuclear ordnance.
12 Fire control equipment.
14 Guided missiles.
15 Aircraft; and airframe structural components.
16 Aircraft components and accessories.
17 Aircraft launching, landing, and ground handling equipment.
20 Ship and marine equipment.
22 Railway equipment.
31 Bearings.
32 Woodworking machinery and equipment, except lathes, milling machines, and saws, circular or band.
34 Metalworking machinery, except drill presses, lathes, milling machines, and saws, circular or band.
40 Rope, cable, chain, and fittings.
41 Refrigeration, air-conditioning, and air circulating equipment.
42 Fire fighting, rescue, and safety equipment.
44 Furnace, steam plant, and frying equipment; and nuclear reactors.
45 Plumbing, heating, and sanitation equipment.
46 Water purification and sewage treatment equipment.
47 Pipe, tubing, hose, and fittings.
48 Valves.
51 Hand tools.
53 Hardware and abrasives.
54 Prefabricated structures and scaffolding.
55 Lumber, millwork, plywood, and veneer.
56 Construction and building materials.
68 Chemicals and chemical products, except medicinal chemicals.
71 Furniture.
75 Office supplies and devices, except cards, tabulating.
83 Textiles, leather, furs, apparel and shoe findings, tents and flags.
84 Clothing, individual equipment, and insignia.

§ 101-46.4802 Exchange/sale category list.

In the acquisition, exchange, or sale of property in the categories below, both the item to be acquired and the item to be replaced must fall within a single number category.

1. Agriculture products, processed foods and forage.
2. Ammunition and ammunition components.
3. Animals and animal products.
4. Batteries, storage.
5. Cards, tabulating.
6. Ditching machines.
7. Drill presses.
8. Drill presses.
9. Drugs, biologicals, and official reagents.
10. Earth augers.
11. Graders, self-powered and towed.
12. Lathes.
13. Machines, adding and calculating.
14. Machines, addressing and mailing.
15. Machines, dictating and transcribing.
16. Machines, duplicating.
17. Machines, punched card, bookkeeping, tabulating and accounting.
18. Milling machines.
19. Mixers, concrete, portable or truck mounted.
20. Pile drivers.
21. Plows, snow, motorized.
22. Road rollers, wheeled and sheepsfoot.

23. Saws, circular or band.
24. Scrapers, earth moving, self-powered.
25. Scrapers, earth moving, towed.
26. Sedans, station wagons, coupes, limousines.
27. Shovels, power.
28. Spreaders, aggregate and lime.
29. Tractors, warehouse.
30. Tractors, wheeled or crawler, with or without special attachments, up to 65 h.p.
31. Tractors, wheeled or crawler, with or without special attachments, 65 h.p. and up.
32. Trailers, general purpose, multiple axle.
33. Trailers, general purpose, single axle.
34. Trailers, tank mounted.
35. Trucks, forklift.
36. Trucks, general purpose, cargo and construction, 12,500 GVW through 28,000 GVW (including truck tractors, dump, multiple drive, etc.).
37. Trucks, general purpose and utility, up to 12,500 GVW (including suburbans, carryalls, and sedan deliveries).
38. Trucks, straddle.
39. Trucks, tank (special purpose trailer of which the tank is an integral part of the construction).
40. Trucks, warehouse, platform, electric and gasoline powered.
41. Typewriters, manual and electric.

PART 101-47—UTILIZATION AND DISPOSAL OF REAL PROPERTY

Sec.
101-47.000 Scope of part.

Subpart 101-47.1—General Provisions

101-47.100 Scope of subpart.
101-47.101 Applicability.
101-47.102 [Reserved]
101-47.103 Definitions.
101-47.103-1 Act.
101-47.103-2 GSA.
101-47.103-3 Airport.
101-47.103-4 Chapel.
101-47.103-5 Decontamination.
101-47.103-6 Disposal agency.
101-47.103-7 Holding agency.
101-47.103-8 Industrial property.
101-47.103-9 Landing area.
101-47.103-10 Management.
101-47.103-11 Protection.
101-47.103-12 Real property.
101-47.103-13 Related personal property.
101-47.103-14 Other terms defined in the Act.
101-47.103-15 Other terms.

Subpart 101-47.2—Utilization of Excess Real Property

Sec.
101-47.200 Scope of subpart.
101-47.201 General provisions of subpart.
101-47.201-1 Policy.
101-47.201-2 Guidelines.
101-47.201-3 Lands withdrawn or reserved from the public domain.
101-47.201-4 Transfers under other laws.
101-47.202 Reporting of excess real property.
101-47.202-1 Reporting requirements.
101-47.202-2 Report forms.
101-47.202-3 Submission of reports.
101-47.202-4 Exceptions to reporting.
101-47.202-5 Reporting after submissions to the Congess.
101-47.202-6 Reports involving the public domain.
101-47.202-7 Reports involving contaminated property.
101-47.202-8 Notice of receipt.
101-47.202-9 Expense of care and handling.
101-47.202-10 Examination for acceptability.
101-47.203 Utilization.
101-47.203-1 Reassignment of real property by the agencies.
101-47.203-2 Transfer and utilization.
101-47.203-3 Notification of agency requirements.
101-47.203-4 Real property excepted from reporting.
101-47.203-5 Screening of excess real property.
101-47.203-6 Designation as personal property.
101-47.203-7 Transfers.
101-47.203-8 Temporary utilization.
101-47.203-9 Non-Federal interim use of property.
101-47.203-10 Withdrawals.
101-47.204 Determination of surplus.
101-47.204-1 Reported property.
101-47.204-2 Property excepted from reporting.

Subpart 101-47.3—Surplus Real Property Disposal

101-47.300 Scope of subpart.
101-47.301 General provisions of subpart.
101-47.301-1 Policy.
101-47.301-2 Applicability of antitrust laws.
101-47.301-3 Disposals under other laws.
101-47.301-4 Credit disposals and leases.
101-47.302 Designation of disposal agencies.
101-47.302-1 General.
101-47.302-2 Holding agency.
101-47.302-3 General Services Administration.

Sec.
101-47.303 Responsibility of disposal agency.
101-47.303-1 Classification.
101-47.303-2 Disposals to public agencies.
101-47.303-2a Notice for zoning purposes.
101-47.303-3 Studies.
101-47.303-4 Appraisal.
101-47.304 Advertised and negotiated disposals.
101-47.304-1 Publicity.
101-47.304-2 Soliciting cooperation of local groups.
101-47.304-3 Information to interested persons.
101-47.304-4 Invitation for offers.
101-47.304-5 Inspection.
101-47.304-6 Submission of offers.
101-47.304-7 Advertised disposals.
101-47.304-8 Report of identical bids.
101-47.304-9 Negotiated disposals.
101-47.304-10 Disposals by brokers.
101-47.304-11 Documenting determinations to negotiate.
101-47.304-12 Explanatory statements.
101-47.305 Acceptance of offers.
101-47.305-1 General.
101-47.305-2 Equal offers.
101-47.305-3 Notice to unsuccessful bidders.
101-47.306 Absence of acceptable offers.
101-47.306-1 Negotiations.
101-47.306-2 Defense Industrial Reserve properties.
101-47.307 Conveyances.
101-47.307-1 Form of deed or instrument of conveyance.
101-47.307-2 Conditions in disposal instruments.
101-47.307-3 Distribution of conformed copies of conveyance instruments.
101-47.307-4 Disposition of title papers.
101-47.307-5 Title transfers from Government corporations.
101-47.307-6 Proceeds from disposals.
101-47.308 Special disposal provisions.
101-47.308-1 Power transmission lines.
101-47.308-2 Property for public airports.
101-47.308-3 Property for use as historic monuments.
101-47.308-4 Property for educational and public health purposes.
101-47.308-5 Property for use as shrines, memorials, or for religious purposes.
101-47.308-6 Property for housing and related facilities.
101-47.308-7 Property for use as public park or recreation areas.
101-47.308-8 Property for displaced persons.
101-47.309 Disposal of leases, permits, licenses, and similar instruments.
101-47.310 Disposal of structures and improvements on Government-owned land.
101-47.311 Disposal of residual personal property.
Sec.
101-47.312 Non-Federal interim use of property.
101-47.313 Easements.
101-47.313-1 Disposal of easements to owner of servient estate.
101-47.313-2 Grants of easements in or over Government property.
101-47.314 Compliance.
101-47.314-1 General.
101-47.314-2 Extent of investigations.
101-47.315 Covenant against contingent fees and related procedure.

Subpart 101-47.4—Management of Excess and Surplus Real Property

101-47.400 Scope of subpart.
101-47.401 General provisions of subpart.
101-47.401-1 Policy.
101-47.401-2 Definitions.
101-47.401-3 Taxes and other obligations.
101-47.401-4 Decontamination.
101-47.401-5 Improvements or alterations.
101-47.401-6 Interim use and occupancy.
101-47.402 Care and handling.
101-47.402-1 Responsibility.
101-47.402-2 Expense of care and handling.
101-47.403 Assistance in disposition.

Subpart 101-47.5—Abandonment, Destruction, or Donation to Public Bodies

101-47.500 Scope of subpart.
101-47.501 General provisions of subpart.
101-47.501-1 Definitions.
101-47.501-2 Authority for disposal.
101-47.501-3 Dangerous property.
101-47.501-4 Findings.
101-47.502 Donations to public bodies.
101-47.502-1 Cost limitations.
101-47.502-2 Disposal costs.
101-47.503 Abandonment and destruction.
101-47.503-1 General.
101-47.503-2 Notice of proposed abandonment or destruction.
101-47.503-3 Abandonment or destruction without notice.

Subpart 101-47.6—Delegations

101-47.600 Scope of subpart.
101-47.601 Delegation to Department of Defense.
101-47.602 Delegation to the Department of Agriculture.
101-47.603 Delegation to the Department of the Interior.
101-47.604 Delegation to the Department of the Interior and the Department of Health, Education, and Welfare.

Subpart 101-47.7—Conditional Gifts of Real Property to Further the Defense Effort

101-47.700 Scope of subpart.

Sec.
101-47.701 Offers and acceptance of conditional gifts.
101-47.702 Consultation with agencies.
101-47.703 Advice of disposition.
101-47.704 Acceptance of gifts under other laws.

Subpart 101-47.8—Identification of Unneeded Federal Real Property

101-47.800 Scope of subpart.
101-47.801 Standards.
101-47.802 Procedures.

Subparts 101-47.9—101.47.48 [Reserved]

Subpart 101-47.49—Illustrations

101-47.4900 Scope of subpart.
101-47.4901 [Reserved]
101-47.4902 Standard Form 118, Report of Excess Real Property.
101-47.4902-1 Standard Form 118a, Buildings, Structures, Utilities, and Miscellaneous Facilities.
101-47.4902-2 Standard Form 118b, Land.
101-47.4902-3 Standard Form 118c, Related Personal Property.
101-47.4902-4 Instructions for the preparation of Standard Form 118, and Attachments, Standard Forms 118a, 118b, and 118c.
101-47.4904 GSA Form 1334, Request for Transfer of Excess Real and Related Personal Property.
101-47.4904-1 Instructions for preparation of GSA Form 1334, Request for Transfer of Excess Real and Related Personal Property.
101-47.4905 Extract of statutes authorizing disposal of surplus real property to public agencies.
101-47.4906 Sample notice to public agencies of surplus determination.
101-47.4906a Attachment to notice sent to zoning authority.
101-47.4906b Paragraph to be added to letter sent to zoning authority.
101-47.4906-1 Sample letter for transmission of notice of surplus determination.
101-47.4907 List of Federal real property holding agencies.
101-47.4908—101-47.4909 [Reserved]
101-47.4910 Field offices of Department of Health, Education, and Welfare.
101-47.4911 Outline for explanatory statements for negotiated sales.
101-47.4912 Regional offices of the Bureau of Outdoor Recreation, Department of the Interior.
101-47.4913 Outline for protection and maintenance of excess and surplus real property.
101-47.4914 Executive Order 11724.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

SOURCE: 29 FR 16126, Dec. 3, 1964, unless otherwise noted.

§ 101-47.000 Scope of part.

This part prescribes the policies and methods governing the utilization and disposal of excess and surplus real property and related personal property within the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

Subpart 101-47.1—General Provisions

§ 101-47.100 Scope of subpart.

This subpart sets forth the applicability of this Part 101-47, and other introductory information.

§ 101-47.101 Applicability.

The provisions of this Part 101-47 apply to all Federal agencies, except as may otherwise be specifically provided under each section or subpart.

§ 101-47.102 [Reserved]

§ 101-47.103 Definitions.

As used throughout this Part 101-47, the following terms shall have the meanings as set forth in this Subpart 101-47.1.

§ 101-47.103-1 Act.

The Federal Property and Administrative Srvices Act of 1949, 63 Stat. 377, as amended.

§ 101-47.103-2 GSA.

The General Services Administration, acting by or through the Administrator of General Services, or a designated official to whom functions under this Part 101-47 have been delegated by the Administrator of General Services.

§ 101-47.103-3 Airport.

Any area of land or water which is used, or intended for use, for the landing and takeoff of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.

§ 101-47.103-4 Chapel.

Any Government-owned building and improvements, including surplus fixtures or furnishings therein, related or essential to the religious activities and services for which the building is to be used and maintained, was designed for and used, or was intended to be used.

§ 101-47.103-5 Decontamination.

The complete removal or destruction by flashing of explosive powders; the neutralizing and cleaning-out of acid and corrosive materials; the removal, destruction, or neutralizing of toxic or infectious substances; and the complete removal and destruction by burning or detonation of live ammunition from contaminated areas and buildings.

§ 101-47.103-6 Disposal agency.

The executive agency designated by the Administrator of General Services to dispose of surplus real property.

§ 101-47.103-7 Holding agency.

The Federal agency which has accountability for the property involved.

§ 101-47.103-8 Industrial property.

Any real property and related personal property which has been used or which is suitable to be used for manufacturing, fabricating, or processing of products; mining operations; construction or repair of ships and other waterborne carriers; power transmission facilities; railroad facilities; and pipeline facilities for transporting petroleum or gas.

§ 101-47.103-9 Landing area.

Any land or combination of water and land, together with improvements thereon and necessary operational equipment used in connection therewith, which is used for landing, takeoff, and parking of aircraft. The term includes, but is not limited to, runways, strips, taxiways, and parking aprons.

§ 101-47.103-10 Management.

The safeguarding of the Government's interest in property, in an efficient and economical manner consistent with the best business practices.

§ 101-47.103-11 Protection.

The provisions of adequate measures for prevention and extinguishment of fires, special inspections to determine and eliminate fire and other hazards, and necessary guards to protect property against thievery, vandalism, and unauthorized entry.

§ 101-47.103-12 Real property.

(a) Any interest in land, together with the improvements, structures, and fixtures located thereon (including prefabricated movable structures, such as Butler-type storage warehouses and quonset huts, and housetrailers with or without undercarriages), and appurtenances thereto, under the control of any Federal agency, except:

(1) The public domain;

(2) Lands reserved or dedicated for national forest or national park purposes;

(3) Minerals in lands or portions of lands withdrawn or reserved from the public domain which the Secretary of the Interior determines are suitable for disposition under the public land mining and mineral leasing laws;

(4) Lands withdrawn or reserved from the public domain but not including lands or portions of lands so withdrawn or reserved which the Secretary of the Interior, with the concurrence of the Administrator of General Services, determines are not suitable for return to the public domain for disposition under the general public land laws because such lands are substantially changed in character by improvements or otherwise; and

(5) Crops when designated by such agency for disposition by severance and removal from the land.

(b) Improvements of any kind, structures, and fixtures under the control of any Federal agency when designated by such agency for disposition without the underlying land (including such as may be located on the public domain, or lands withdrawn or reserved from the public domain, or lands reserved or dedicated for national forest or national park purposes, or on lands that are not owned by the United States) excluding, however, prefabricated movable structures, such as Butler-type storage warehouses and quonset huts, and housetrailers (with or without undercarriages).

(c) Standing timber and embedded gravel, sand, or stone under the control of any Federal agency whether designated by such agency for disposition with the land or by severance and removal from the land, excluding timber felled, and gravel, sand, or stone excavated by or for the Government prior to disposition.

[29 FR 16126, Dec. 3, 1964, as amended at 30 FR 11281, Aug. 2, 1965; 33 FR 8737, June 14, 1968]

§ 101-47.103-13 Related personal property.

Any personal property:

(a) Which is located on, or is an integral part of, real property, or used or useful in connection with such property or the productive capacity thereof; or

(b) Determined by the Administrator of General Services to be otherwise related to the real property.

§ 101-47.103-14 Other terms defined in the Act.

Other terms which are defined in the Act shall have the meanings given them by such Act.

§ 101-47.103-15 Other terms.

Other terms not applicable throughout this part are defined in the sections or subparts to which they apply.

Subpart 101-47.2—Utilization of Excess Real Property

§ 101-47.200 Scope of subpart.

This subpart prescribes the policies and methods governing the reporting by executive agencies and utilization by Federal agencies of excess real property, including related personal property, within the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands. This subpart does not apply to the abandonment, destruction, or donation to public bodies, under section 202(h) of the Act (covered by Subpart 101-47.5).

§ 101-47.201 General provisions of subpart.

§ 101-47.201-1 Policy.

It is the policy of the Administrator of General Services:

(a) To stimulate the identification and reporting by executive agencies of excess real property.

(b) To achieve the maximum utilization by executive agencies, in terms of economy and efficiency, of excess real property in order to minimize expenditures for the purchase of real property.

(c) To provide for the transfer of excess real property among Federal agencies, to mixed-ownership Government corporations, and to the municipal government of the District of Columbia.

[29 FR 16126, Dec. 3, 1964, as amended at 42 FR 40698, Aug. 11, 1977]

§ 101-47.201-2 Guidelines.

(a) Each executive agency shall:

(1) Survey real property under its control (including property assigned on a permit basis to other Federal agencies, or outleased to States, local governments, other public bodies, or private interests) at least annually to identify property which is not needed, underutilized, or not being put to optimum use. When other needs for the property are identified or recognized, the agency shall determine whether continuation of the current use or another Federal or other use would better serve the public interest, considering both the agency's needs and the property's location. In conducting each review, agencies shall be guided by § 101-47.801(b), other applicable General Services Administration regulations, and such criteria as may be established by the Federal Property Council;

(2) Maintain its inventory of real property at the absolute minimum consistent with economical and efficient conduct of the affairs of the agency; and

(3) Promptly report to GSA real property which it has determined to be excess.

(b) Each executive agency shall, so far as practicable, pursuant to the provisions of this subpart, fulfill its needs for real property by utilization of excess real property.

(c) To preclude the acquisition by purchase of real property when excess or surplus property of another Federal agency may be available which would meet the need, each executive agency shall notify GSA of its needs and ascertain whether any such property is available. However, in specific instances where the agency's proposed acquisition of real property is dictated by such factors as exact geographical location, topography, engineering, or similar characteristics which limit the possible use of other available property, the notification shall not be required. For example, for a dam site or reservoir area or the construction of a generating plant or a substation specific lands are needed and, ordinarily, no purpose would be served by such notification.

(d) In every case of a proposed transfer of excess real property, the paramount consideration shall be the validity and appropriateness of the requirement upon which the proposal is based.

(1) A proposed transfer should not establish a new program of an executive agency which has never been reflected in any previous budget submission or congressional action; nor should it substantially increase the level of an agency's existing programs beyond that which has been contemplated in the President's budget or by the Congress.

(2) Before requesting a transfer of excess real property, an executive agency should:

(i) Screen the holdings of the bureaus or other organizations within the agency to determine whether the new requirement can be met through improved utilization. Any utilization, however, must be for purposes that are consistent with the highest and best use of the property under consideration; and

(ii) Review all real property under its accountability which it has assigned on a permit basis to other Federal agencies, or outleased to States, local governments, other public bodies, or private interests and terminate the permit or lease for any property, or portion thereof, that is suitable for the proposed need whenever such termination is not prohibited by the terms of the permit or lease.

(3) Property found to be available under § 101-47.201-2(d)(2) (i) or (ii), should be utilized for the proposed need in lieu of requesting a transfer of excess real property. Reassignments of such property within the agency should be made in appropriate cases.

(4) The appraised fair market value of the excess real property proposed for transfer should not substantially exceed the probable purchase price of other real property which would be suitable for the intended purpose.

(5) The size and quantity of excess real property to be transferred should be limited to the actual requirements. Other portions of an excess installation which can be separated should be withheld from transfer and made available for disposal to other agencies or to the public.

(6) Consideration should be given to the design, layout, geographic location, age, state of repair, and expected maintenance costs of excess real property proposed for transfer. It should be clearly demonstrated that the transfer will prove more economical over a sustained period of time than acquisition of a new facility specifically planned for the purpose.

(7) Excess real property should not be permanently transferred to agencies for programs which appear to be scheduled for substantial curtailment or termination. In such cases, the property may be temporarily transferred on a conditional basis, with an understanding that the property will be released for further Federal utilization or disposal as surplus property, at a time agreed upon when the transfer is arranged (see § 101-47.203-8).

(e) Excess real property of a type which may be used for office, storage, and related purposes normally will be assigned by, or at the direction of, GSA for use to the requesting agency in lieu of being transferred to the agency.

(f) Federal agencies which normally do not require real property, other than for office, storage, and related purposes, or which may not have statutory authority to acquire such property, may obtain the use of excess real property for an approved program when authorized by GSA.

[29 FR 16126, Dec. 3, 1964, as amended at 39 FR 11281, Sept. 2, 1965; 37 FR 5029, Mar. 9, 1972; 40 FR 12078, Mar. 17, 1975]

§ 101-47.201-3 Lands withdrawn or reserved from the public domain.

(a) Agencies holding lands withdrawn or reserved from the public domain, which they no longer need, shall send to the GSA regional office for the region in which the lands are located an information copy of each notice of intention to relinquish filed with the Department of the Interior (43 CFR Part 2372, et seq.).

(b) Section 101-47.202-6 prescribes the procedure for reporting to GSA as excess property, certain lands or portions of lands withdrawn or reserved from the public domain for which such notices have been filed with the Department of the Interior.

[29 FR 16126, Dec. 3, 1964, as amended at 42 FR 40698, Aug. 11, 1977]

§ 101-47.201-4 Transfers under other laws.

Pursuant to section 602(c) of the Act, transfers of real property shall not be made under other laws, but shall be made only in strict accordance with the provisions of this subpart unless the Administrator of General Services, upon written application by the disposal agency, shall determine in each case that the provisions of any such other law, pursuant to which a transfer is proposed to be made, are not inconsistent with the authority conferred by this Act. The provisions of this section shall not apply to transfers of real property authorized to be made by section 602(d) of the Act or by any special statute which directs or requires an executive agency named therein to transfer or convey specifically described real property in accordance with the provisions of such statute.

§ 101-47.202 Reporting of excess real property.

§ 101-47.202-1 Reporting requirements.

Each executive agency shall report to GSA, pursuant to the provisions of this section, all excess real property except as provided in § 101-47.202-4. Reports of excess real property shall be based on the agency's official real property records and accounts.

(a) All excess related personal property shall be reported as a part of the same report covering the excess real property.

(b) Upon request of the Administrator of General Services, executive agencies shall institute specific surveys to determine that portion of real property, including unimproved property, under their control which might be excess and suitable for office, storage, and related facilities, and shall report promptly to the Administrator of General Services as soon as each survey is completed.

§ 101-47.202-2 Report forms.

Reports of excess real property and related personal property shall be prepared on Standard Form 118, Report of Excess Real Property (see § 101-47.4902), and accompanying Standard Form 118a, Buildings Structures, Utilities, and Miscellaneous Facilities, Schedule A (§ 101-47.4902-1); Standard Form 118b, Land, Schedule B (see § 101-47.402-2); and Standard Form 118c, Related Personal Property, Schedule C (see § 101-47.4902-3). Instructions for the preparation of Standard Forms 118, 118a, 118b, and 118c are set forth in § 101-47.4902-4.

(a) Property for which the holding agency is designated as the disposal agency under the provisons of § 101-47.302-2 and which is required to be reported to GSA under the provisions of this section shall be reported on Standard Form 118, without the accompanying Schedules A, B, and C, unless the holding agency requests GSA to act as disposal agency and a statement to that effect is inserted in Block 18, Remarks, of Standard Form 118.

(b) In all cases where Government-owned land is reported, there shall be attached to and made a part of Standard Form 118 (original and copies thereof) a report prepared by a qualified employee of the holding agency on the Government's title to the property based upon his review of the records of the agency. The report shall recite:

(1) The description of the property.

(2) The date title vested in the United States.

(3) All exceptions, reservations, conditions, and restrictions, relating to the title acquired.

(4) Detailed information concerning any action, thing, or circumstance that occurred from the date of the acquisition of the property by the United States to the date of the report which in any way affected or may have affected the right, title, and interest of the United States in and to the real property (together with copies of such legal comments or opinions as may be contained in the file concerning the manner in which and the extent to which such right, title, or interest may have been affected). In the absence of any such action, thing, or circumstance, a statement to that effect shall be made a part of the report.

(5) The status of civil and criminal jurisdiction over the land that is peculiar to the property by reason of it being Government-owned land. In the absence of any special circumstances, a statement to that effect shall be made a part of the report.

(6) Detailed information regarding any known flood hazards or flooding of the property and, if located in a floodplain or wetlands, a listing of and citations to those uses that are restricted under identified Federal, State, or local regulations as required by Executive Orders 11988 and 11990 of May 24, 1977.

(7) The specific identification and description of fixtures and related personal property that have possible historic or artistic value.

(8) The historical significance of the property, if any, and whether the property is listed, is eligible for, or has been nominated for listing in the National Register of Historic Places or is in proximity to a property on the National Register. If the holding agency is aware of any effort by the public to have the property listed on the National Register, this information should be included.

(c) There shall be transmitted with Standard Form 118:

(1) A legible, reproducible copy of all instruments in possession of the agency which affect the right, title, or interest of the United States in the property reported or the use and operation of such property (including agreements covering and licenses to use, any patents, processes, techniques, or inventions). In cases where the agency considers it to be impracticable to transmit the abstracts of title and related title evidence, such documents need not be transmitted; however, the name and address of the custodian of such documents shall be stated in the title report referred to in § 101-47.202-2(b) and they shall be furnished if requested by GSA; and

(2) Any appraisal reports in the possession of the holding agency of the fair market value or the fair annual rental of the property reported.

[29 FR 16126, Dec. 3, 1964, as amended at 31 FR 15541, Dec. 9, 1966; 34 FR 8166, May 24, 1969; 40 FR 22256, May 22, 1975; 44 FR 19406, Apr. 3, 1979]

§ 101-47.202-3 Submission of reports.

Reports of excess shall be filed with the regional office of GSA for the region in which the excess property is located, as follows:

(a) Government-owned real property and related personal property shall be reported by the holding agencies 90-calendar days in advance of the date such excess property shall become available for transfer to another Federal agency or for disposal. Where the circumstances will not permit excess real property and related personal property to be reported a full 90-calendar days in advance of the date it will be available, the report shall be made as far in advance of such date as possible.

(b) Leasehold interests in real property determined to be excess shall be reported at least 60-calendar days prior to the date on which notice of termination or cancellation is required by the terms of the instrument under which the property is occupied.

(c) All reports submitted by the Department of Defense shall bear the certification "This property has been screened against the known needs of the Department of Defense." All reports submitted by civilian agencies shall bear the certification "This property has been screened against the known needs of the holding agency."

§ 101-47.202-4 Exceptions to reporting.

(a) A holding agency shall not report to GSA leased space assigned to the agency by GSA and determined by the agency to be excess.

(b) Also, except for those instances set forth in § 101-47.202-4(c) a holding agency shall not report to GSA property used, occupied, or controlled by the Government under a lease, permit, license, easement, or similar instrument when:

(1) The lease or other instrument is subject to termination by the grantor or owner of the premises within nine months;

(2) The remaining term of the lease or other instrument, including renewal rights, will provide for less than nine months of use and occupancy;

(3) The term of the lease or other instrument would preclude transfer to, or use by, another Federal agency or disposal to a third party; or

(4) The lease or other instrument provides for use and occupancy of space for office, storage, and related facilities, which does not exceed a total of 2,500 sq. feet.

(c) Property, which otherwise would not be reported because it falls within the exceptions set forth in § 101-47.202-4(b) shall be reported:

(1) If there are Government owned improvements located on the premises; or

(2) If the continued use, occupancy, or control of the property by the Government is needful for the operation, production, or maintenance of other property owned or controlled by the Government that has been reported excess or is required to be reported to GSA under the provisions of this section.

§ 101-47.202-5 Reporting after submissions to the Congress.

Reports of excess covering property of the military departments and of the Office of Emergency Planning prepared after the expiration of 30 days from the date upon which a report of the facts concerning the reporting of such property was submitted to the Committees on Armed Services of the Senate and House of Representatives, 10 U.S.C. 2662 and the Act of August 10, 1956, 70A Stat. 636, as amended (50 U.S.C. App. 2285), shall contain a statement that the requirements of the statute have been met.

§ 101-47.202-6 Reports involving the public domain.

(a) Agencies holding land withdrawn or reserved from the public domain which they no longer need, shall report on Standard Form 118, with appropriate Schedules A, B, and C, land or portions of land so withdrawn or reserved and the improvements thereon, if any, to the regional office of GSA for the region in which the lands are located when the agency has:

(1) Filed a notice of intention to relinquish with the Department of the Interior and sent a copy of the notice to the regional office of GSA (§ 101-47.201-3);

(2) Been notified by the Department of the Interior that the Secretary of the Interior, with the concurrence of the Administrator of General Services, has determined the lands are not suitable for return to the public domain for disposition under the general public land laws because the lands are substantially changed in character by improvements or otherwise; and

(3) Obtained from the Department of the Interior a report as to whether any agency (other than the holding agency) claims primary, joint, or secondary jurisdiction over the lands and whether the Department's records show the lands to be encumbered with any existing valid rights or privileges under the public land laws.

(b) Should the Department of the Interior determine that minerals in the lands are not suitable for disposition under the public land mining and mineral leasing laws, the Department will notify the appropriate regional office of GSA of such determination and will authorize the holding agency to include the minerals in its report to GSA.

(c) When reporting the property to GSA, a true copy of the notification (§ 101-47.202-6(a)(2)) and report

(§ 101-47.202-6(a)(3)) shall be submitted as a part of the holding agency's report on the Government's legal title which shall accompany Standard Form 118.

§ 101-47.202-7 Reports involving contaminated property.

Any report of excess covering property which in its present condition is dangerous or hazardous to health and safety, shall state the extent of such contamination, the plans for decontamination, and the extent to which the property may be used without further decontamination.

§ 101-47.202-8 Notice of receipt.

GSA shall promptly notify the holding agency of the date of receipt of each Report of Excess Real Property (Standard Form 118).

§ 101-47.202-9 Expense of care and handling.

When there are expenses connected with the physical care, handling, protection, maintenance, and repair of the property reported to GSA, the notice to the holding agency of the date of receipt (see § 101-47.202-8) will indicate, if determinable, the date that the provisions of § 101-47.402-2 will become effective. Normally this will be the date of the receipt of the report. If because of actions of the holding agency the property is not available for immediate disposition at the time of receipt of the report, the holding agency will be reminded in the notice that the period of its responsibility for the expense of care and handling will be extended by the period of the delay.

[36 FR 3894, Mar. 2, 1971]

§ 101-47.202-10 Examination for acceptability.

Each report of excess shall be reviewed by GSA to ascertain whether the report was prepared in accordance with the provisions of this section. Within fifteen calendar days after receipt of a report, the holding agency shall be informed by letter of the findings of GSA.

(a) Where it is found that a report is adequate to the extent that GSA can proceed with utilization and disposal actions for the property, the report shall be accepted and the holding agency shall be informed of the date of such acceptance. However, the holding agency shall, upon request, promptly furnish such additional information or documents relating to the property as may be required by GSA to accomplish a transfer or a disposal.

(b) Where it is found that a report is insufficient to the extent that GSA would be unable to proceed with any utilization or disposal actions for the property, the report shall be returned and the holding agency shall be informed of the facts and circumstances that required the return of the report. The holding agency promptly shall take such action as may be appropriate to submit an acceptable report to GSA. Should the holding agency be unable to submit an acceptable report, the property shall be removed from under the provisions of § 101-47.402-2.

§ 101-47.203 Utilization.

§ 101-47.203-1 Reassignment of real property by the agencies.

Each executive agency shall, as far as practicable and within the policies expressed in this Subpart 101-47.2, make reassignments of real property and related personal property under its control and jurisdiction among activities within the agency in lieu of acquiring such property from other sources.

[42 FR 40698, Aug. 11, 1977]

§ 101-47.203-2 Transfer and utilization.

Each executive agency shall, as far as practicable and within the policies expressed in this Subpart 101-47.2, transfer excess real property under its control to other Federal agencies and to the organizations specified in § 101-47.203-7, and shall fulfill its requirements for real property by obtaining excess real property from other Federal agencies. Transfers of property shall be made in accordance with the provisions of this subpart.

[42 FR 40698, Aug. 11, 1977]

§ 101-47.203-3 Notification of agency requirements.

Each executive agency shall notify the proper GSA regional office whenever real property is needed for an authorized program of the agency. The notice shall state the land area of the property needed, the preferred location or suitable alternate locations, and describe the type of property needed in sufficient detail to enable GSA to review its records of property that it knows will be reported excess by holding agencies, its inventory of excess property, and its inventory of surplus property, to ascertain whether any such property may be suitable for the needs of the agency. The agency shall be informed promptly by the GSA regional office as to whether or not any such property is available.

[33 FR 571, Jan. 17, 1968]

§ 101-47.203-4 Real property excepted from reporting.

Agencies having transferable excess real property and related personal property in the categories excepted from reporting by § 101-47.202-4 shall, before disposal, satisfy themselves in a manner consistent with the provisions of this section that such property is not needed by other Government agencies.

§ 101-47.203-5 Screening of excess real property.

Excess real property and related personal property reported by executive agencies shall, unless such screening is waived, be screened by GSA for utilization by Federal real property holding agencies (listed in § 101-47.4907), which may reasonably be expected to have use for the property as follows:

(a) Notices of availability will be submitted to each such agency which shall, within 30 calendar days from the date of notice, advise GSA if there is a firm requirement or a tentative requirement for the property. Agencies having tentative or firm requirements for surplus Federal real property for replacement housing for displaced persons, as authorized by section 218 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1902), shall review these notices for the additional purpose of identifying properties for which they may have such a requirement. When such a requirement exists, the agency shall so advise the appropriate GSA regional office.

(1) In the event a tentative requirement exists, the agency shall, within an additional 30 calendar days, advise GSA if there is a firm requirement.

(2) Within 60 calendar days after advice to GSA that a firm requirement exists, the agency shall furnish GSA a request for transfer of the property pursuant to § 101-47.203-7.

(b) Notices of availability for information of the Secretary of Health, Education, and Welfare in connection with the exercise of the authority vested in him under the provisions of section 203(k)(1) of the act and for information of the Secretary of the Interior in connection with the exercise of the authority vested in him under the provisions of section 203(k)(2) of the act or a possible determination under the provisions of section 203(k)(3) of the act, will be sent to the offices designated by the Secretaries to serve the areas in which the properties are located. A similar notice of availability for the information of the Secretary of Housing and Urban Development in connection with a possible transfer (assignment) and disposal under section 414 of the Housing and Urban Development Act of 1969, as amended (40 U.S.C. 484b) will be sent to the central office of the Department of Housing and Urban Development.

(c) The Departments of Health, Education, and Welfare (HEW), Interior, and Housing and Urban Development (HUD) shall not attempt to interest a local applicant in the property until the property is determined to be surplus except with the prior consent of the General Services Administration (GSA) on a case-by-case basis. When such consent is obtained, the local applicant shall be informed that consideration of his application is conditional upon the property being determined surplus to Federal requirements and available for the purposes of the application. However, these Departments are encouraged to advise the appropriate GSA regional office of those excess properties which are suitable for their programs.

(d) HUD shall inform the appropriate GSA regional office of those particular excess properties which have potential for housing and for related public, commercial, or industrial facilities under section 414 of the 1969 Housing Act, as amended, within 30 calendar days from the date of the notice of availability.

[29 FR 16126, Dec. 3, 1964, as amended at 36 FR 8041, Apr. 29, 1971; 36 FR 9775, May 28, 1971; 36 FR 11438, June 12, 1971; 40 FR 22256, May 22, 1975]

§ 101-47.203-6 Designation as personal property.

(a) Prefabricated movable structures such as Butler-type storage warehouses, quonset huts, and housetrailers (with or without undercarriages) reported to GSA with the land on which they are located may, in the discretion of GSA, be designated for disposition as personal property for off-site use.

(b) Related personal property may, in the discretion of the disposal agency, be designated for disposition as personal property. Consideration of such designation shall be given particularly to items having possible historic or artistic value to ensure that Federal agencies, including the Smithsonian Institution (see § 101-43.302), are afforded the opportunity of obtaining them through personal property channels for off-site use for preservation and display. Fixtures such as murals and fixed sculpture which have exceptional historical or artistic value may be designated for disposition by severance for off-site use. In making such designations, consideration shall be given to such factors as whether the severance can be accomplished without seriously affecting the value of the realty and whether a ready disposition can be made of the severed fixtures.

(c) When a structure is to be demolished, any fixtures or related personal property therein may, at the discretion of the disposal agency, be designated for disposition as personal property where a ready disposition can be made of these items through such action. As indicated in paragraph (b) of this section, particular consideration should be given to designating items of possible historical or artistic value as personal property in such instances.

[34 FR 8166, May 24, 1969]

§ 101-47.203-7 Transfers.

(a) The agency requesting transfer of excess real property and related personal property reported to GSA shall prepare and submit to the proper GSA regional office GSA Form 1334, Request for Transfer of Excess Real and Related Personal Property (§ 101-47.4904). Instructions for the preparation of GSA Form 1334 are set forth in § 101-47.4904-1.

(b) Upon determination by GSA with the concurrence of OMB when required (see § 101-47.203-7(c)) that a transfer of the property requested is in the best interest of the Government and that the requesting agency is the appropriate agency to hold the property, the transfer may be made among Federal agencies, to mixed-ownership Government corporations, and to the municipal government of the District of Columbia.

(c) GSA will secure the concurrence of OMB in the transfer of excess land which together with any improvements thereon has a total appraised fair market value in excess of $1,000,000 or is an unusual case.

(d) Transfers of property to executive agencies shall be made when the proposed land use is consistent with the policy of the Administrator of General Services as prescribed in § 101-47.201-1 and the policy guidelines prescribed in § 101-47.201-2. In determining whether a proposed transfer should be approved under the policy guidelines, GSA and OMB may consult informally to obtain all available data concerning actual program needs for the property.

(e) GSA will execute or authorize all approved transfers to the requesting agency of property reported to GSA. Agencies may transfer without reference to GSA excess real property which is not reported to GSA under the provisions of § 101-47.202-4(b) (1), (2), and (4). However, such transfers shall be made in accordance with the principles set forth in this section.

(f) Pursuant to an agreement between the Director, Office of Management and Budget, and the Administrator of General Services, reimbursement for transfers of excess real property is prescribed as follows:

(1) Where the transferor agency has requested the net proceeds of the transfer pursuant to section 204(c) of the Act, or where either the transferor or transferee agency (or organizational unit affected) is subject to the Government Corporation Control Act (31 U.S.C. 841) or is a mixed-ownership Government corporation, or the municipal government of the District of Columbia, reimbursement for the transfer shall be an amount equal to the appraised fair market value of the property requested: *Provided,* That where the transferor agency is a wholly owned Government corporation, the reimbursement shall be either an amount equal to the appraised fair market value of the property requested or the corporation's book value thereof, as may be agreed upon by GSA and the corporation.

(2) Reimbursement in all other transfers of excess real property shall be:

(i) In an amount equal to 50 percent of the appraised fair market value of the property requested, or if the transfer is for the purpose of upgrading facilities (i.e., for the purpose of replacing other property of the transferee agency which because of the location, nature, or condition thereof, is less efficient for use), the reimbursement shall be an amount equal to 50 percent of the difference between the appraised fair market value of the property to be replaced and the appraised fair market value of the property requested; or

(ii) Without reimbursement when the transfer is to be made under any one of the following conditions:

(*a*) The transferee agency clearly demonstrates that it cannot furnish the required reimbursement without obtaining an additional appropriation for that specific purpose.

(*b*) The transferee agency demonstrates that reimbursement could be made only by diverting funds which were justified to Congress to be used for some other purpose.

(*c*) The Congress appropriated funds for the transferee agency's program with the understanding that the transfer would be made without reimbursement.

(*d*) Congress has specifically authorized the transfer without reimbursement.

(*e*) The excess real property is to be transferred to the Department of Agriculture, is within the exterior boundaries of, and is suitable for addition to a national forest, and the Administrator of General Services determines that such property is available for that purpose.

(iii) A transfer without reimbursement, based on § 101-47.203-7(f)(2)(ii) (*a*), (*b*), or (*c*) shall be supported by a written certification by the head of the transferee agency or military department, or his designee (not below departmental level), with regard to those matters, and in the case of (*a*) and (*b*) documented with appropriate financial statements, and in the case of (*c*) include appropriate citations to congressional hearings, reports, etc. A transfer based on (*d*) shall be supported by appropriate statutory citations. A transfer based on (*e*) shall be supported by appropriate maps and land descriptions concerning the exterior boundaries of the national forest in relationship to the property proposed for transfer and the authority or order establishing the national forest. The above required data and documents shall be attached to GSA Form 1334 by the transferee agency on submission of that form to GSA.

(g) Excess property may be transferred to the Senate, the House of Representatives, and the Architect of the Capitol and any activities under his direction, pursuant to the provisions of section 602(e) of the Act. The amount of reimbursement for such transfer shall be the same as would be required for a transfer of excess property to an executive agency under similar circumstances.

[29 FR 16126, Dec. 3, 1964, as amended at 37 FR 5029, Mar. 9, 1972; 40 FR 12078, Mar. 17, 1975; 42 FR 40698, Aug. 11, 1977]

§ 101-47.203-8 Temporary utilization.

(a) Whenever GSA determines that the temporary assignment or reassignment to a Federal agency of any space in excess real property for office, storage, or related facilities would be more advantageous than the permanent transfer of the property to a Federal agency, it will execute or authorize such assignment or reassignment for such period of time as it shall determine. The agency to which the space is made available shall make appropriate reimbursement for the expense of maintaining such space in the absence of appropriation available to GSA therefor.

(b) GSA may approve the temporary assignment or reassignment to a Federal agency of excess real property other than space for office, storage, or related facilities whenever such action would be in the best interest of the Government. In such cases, the agency to which the property is made available may be required to pay a rental or users charge based upon the fair value of such property, as determined by GSA. Where such property will be required by the agency for a period of more than 1 year, it may be transferred on a conditional basis, with an understanding that the property will be reported excess at a time agreed upon when the transfer is arranged (see § 101-47.201-2(d)(7)).

§ 101-47.203-9 Non-Federal interim use of property.

The holding agency may, with the approval of GSA, grant rights for non-Federal interim use of excess property reported to GSA, or portions thereof, when it is determined that such interim use is not required for the needs of any Federal agency.

§ 101-47.203-10 Withdrawals.

Subject to the approval of GSA, and to such conditions as GSA considers appropriate, reports of excess real property may be withdrawn in whole or in part by the reporting agency at any time prior to transfer to another Federal agency or prior to the execution of a legally binding agreement for disposal as surplus property. Requests for withdrawals shall be addressed to the GSA regional office where the report of excess real property was filed.

[35 FR 17256, Nov. 6, 1970]

§ 101-47.204 Determination of surplus.

§ 101-47.204-1 Reported property.

Any real property and related personal property reported excess under this Subpart 101-47.2 which has been screened for needs of Federal agencies or waived from such screening by GSA, and not been designated by GSA for utilization by a Federal agency, shall be subject to determination as surplus property by GSA.

(a) The holding agency, the Secretary of Health, Education, and Welfare, and the Secretary of the Interior will be notified of the date upon which determination as surplus becomes effective. The Secretary of Housing and Urban Development also will be so notified but only regarding those properties that HUD identifies as having potential for housing and for related public, commercial, or industrial facilities under section 414 of the Housing and Urban Development Act of 1969, as amended. (See § 101-47.203-5.) Any Federal agency that has identified a property as being required for replacement housing for displaced persons under section 218 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 also will be notified of the date upon which determination as surplus becomes effective. The Administrator of the Federal Energy Administration also will be notified when real property is determined surplus and advised of any known interest in the property for its use or development for energy facilities. Appropriate steps will be taken to ensure that energy site needs are considered along with other competing needs in the disposal of surplus real property since such property may become available for such use under section 203(e)(3)(G) or (H) of the Federal Property and Administrative Services Act of 1949, as amended.

(b) The notices to the Secretary of Health, Education, and Welfare, the Secretary of the Interior, and the Administrator of the Federal Energy Administration will be sent to the offices designated by them to serve the area in which the property is located. The notices to the Secretary of Housing and Urban Development will be sent to the central office of HUD. The notices to the Federal agencies having a requirement pursuant to section 218 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 will be sent to the office making the request unless another office is designated.

(c) With regard to surplus property which GSA predetermines will not be available for disposal under the abovementioned programs, or whenever the holding agency has requested reimbursement of the net proceeds of disposition pursuant to section 204(c) of the Act, the notice to the affected department(s) will contain advice of such determination or request for reimbursement. The affected department(s) shall not screen for potential applicants for such property.

[29 FR 16126, Dec. 3, 1964, as amended at 36 FR 8041, Apr. 29, 1971; 39 FR 22947, June 25, 1974]

§ 101-47.204-2 Property excepted from reporting.

Any property not reported to GSA due to § 101-47.202-4, and not designated by the holding agency for utilization by other agencies pursuant to the provisions of this Subpart 101-47.2, shall be subject to determination as surplus by the holding agency.

Subpart 101-47.3—Surplus Real Property Disposal

§ 101-47.300 Scope of subpart.

This subpart prescribes the policies and methods governing the disposal of surplus real property and related personal property within the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands. This subpart does not apply to the abandonment, destruction, or donation to public bodies, under section 202(h) of the Act (covered by Subpart 101-47.5).

§ 101-47.301 General provisions of subpart.

§ 101-47.301-1 Policy.

It is the policy of the Administrator of General Services:

(a) That surplus real property shall be disposed of in the most economical manner consistent with the best interests of the Government.

(b) That surplus real property shall ordinarily be disposed of for cash consistent with the best interests of the Government.

(c) That surplus real property shall be disposed of by exchange for privately owned property only for property management considerations such as boundary realignment or provision of access or in those situations in which the acquisition is authorized by law, the requesting Federal agency has received approval from the Office of Management and Budget and clearance from its congressional oversight committees to acquire by exchange, and the transaction offers substantial economic or unique program advantages not otherwise obtainable by any other method of acquisition.

[29 FR 16126, Dec. 3, 1964, as amended at 42 FR 47205, Sept. 20, 1977; 42 FR 56123, Oct. 21, 1977]

§ 101-47.301-2 Applicability of antitrust laws.

(a) In any case in which there is contemplated a disposal to any private interest of real and related personal property which cost $1,000,000 or more (aggregate amount of the original acquisition cost to the Government and all capital expenditures made by the Government with respect thereto), or of patents, processes, techniques, or inventions, irrespective of cost, the disposal agency shall transmit promptly to the Attorney General notice of any such proposed disposal and the probable terms or conditions thereof, as required by section 207 of the Act, for his advice as to whether the proposed disposal would tend to create or maintain a situation inconsistent with the antitrust laws, and no such real property shall be disposed of until such advice has been received. If such notice is given by any executive agency other than GSA, a copy of the notice shall be transmitted simultaneously to the office of GSA for the region in which the property is located.

(b) Upon request of the Attorney General, GSA or any other executive agency shall furnish or cause to be furnished such information as it may possess which the Attorney General determines to be appropriate or necessary to enable him to give the requested advice or to determine whether any other disposition or proposed disposition of surplus real property violates or would violate any of the antitrust laws.

§ 101-47.301-3 Disposals under other laws.

Pursuant to section 602(c) of the act, disposals of real property shall not be made under other laws but shall be made only in strict accordance with the provisions of this Subpart 101-47.3 unless the Administrator of General Services, upon written application by the disposal agency, shall determine in each case that the provisions of any such other law, pursuant to which disposal is proposed to be made, are not inconsistent with the authority conferred by this Act. The provisions of this section shall not apply to disposals of real property authorized to be made by section 602(d) of the act or by any special statute which directs or requires an executive agency named therein to transfer or convey specifically described real property in accordance with the provisions of such statute.

§ 101-47.301-4 Credit disposals and leases.

Where credit is extended in connection with any disposal of surplus property, the disposal agency shall offer credit pursuant to the provisions of § 101-47.304-4. The disposal agency shall administer and manage the credit lease, or permit and any security therefor and may enforce, adjust, or settle any right of the Government with respect thereto in such manner and upon such terms as that agency considers to be in the best interests of the Government.

[42 FR 47205, Sept. 20, 1977]

§ 101-47.302 Designation of disposal agencies.

§ 101-47.302-1 General.

In accordance with applicable provisions of this Subpart 101-47.3, surplus real property shall be disposed of or assigned to the appropriate Federal department for disposal for public use purposes by the disposal agency.

[36 FR 8042, Apr. 29, 1971]

§ 101-47.302-2 Holding agency.

(a) The holding agency is hereby designated as disposal agency for:

(1) Leases, permits, licenses, easements, and similar real estate interests held by the Government in non-Government-owned property (including Government-owned improvements located on the premises), except when it is determined by either the holding agency or GSA that the Government's interest will be best served by the disposal of such real estate interests together with other property owned or controlled by the Government, that has been or is being reported to GSA as excess; and

(2) Fixtures, structures, and improvements of any kind to be disposed of without the underlying land.

(3) Standing timber and embedded gravel, sand, and stone to be disposed of without the underlying land.

(b) GSA may act as the disposal agency for the type of property described in paragraphs (a)(1) and (2) of this section, whenever requested by the holding agency to perform the disposal functions. Where GSA acts as the disposal agency for the disposal of leases and similar real estate interests as described in paragraph (a)(1) of this section, the holding agency nevertheless shall continue to be responsible for the payment of the rental until the lease is terminated and for the payment of any restoration or other direct costs incurred by the Government as an incident to the termination. Likewise, where GSA acts as disposal agency for the disposal of fixtures, structures, and improvements as described in paragraph (a)(2) of this section, the holding agency nevertheless shall continue to be responsible for payment of any demolition and removal costs not offset by the sale of the property.

[29 FR 16126, Dec. 3, 1964, as amended at 31 FR 2658, Feb. 11, 1966; 31 FR 16780, Dec. 31, 1966; 33 FR 8737, June 14, 1968]

§ 101-47.302-3 General Services Administration.

GSA is the disposal agency for all real property and related personal property not covered by the above designations or by disposal authority delegated by the Administrator of General Services in specific instances.

§ 101-47.303 Responsibility of disposal agency.

§ 101-47.303-1 Classification.

Each surplus property, or, if the property is subdivided, each unit of property shall be classified by the disposal agency to determine the methods and conditions applicable to the disposal of the property. Classification shall be according to the estimated highest and best use for the property. The property may be reclassified from time to time by the disposal agency or by GSA whenever such action is deemed appropriate.

§ 101-47.303-2 Disposals to public agencies.

The disposal agency, in compliance with the Office of Management and Budget Circular No. A-95, Revised, shall solicit the comments of the Governor, local elected officials, and State and areawide clearinghouses concerning the compatibility of the proposed disposal with State, regional and local development plans and programs. Simultaneously, eligible public agencies are to be afforded the opportunity to procure the property. Citations of the statutes authorizing the disposal of property to public agencies, the type of property the public agencies may procure under each statute, and the public agencies eligible to procure such property are given in § 101-47.4905.

(a) Whenever property is determined to be surplus, the disposal agency shall, on the basis of the information given in § 101-47.4905, list the public agencies eligible under the provisions of the statutes referred to above to procure the property or portions thereof, except that such listing need not be made with respect to:

(1) Any such property when the determination of the property as surplus is conditioned upon disposal limitations which would be inconsistent with disposal under the statutes authorizing disposal to eligible public agencies; or

(2) Any such property having an estimated fair market value of less than $1,000 except where the disposal agency has any reason to believe that an eligible public agency may be interested in the property.

(b) Prior to any public advertising, negotiation, or other disposal action with regard to the property, the disposal agency shall give notice to eligible public agencies that the property has been determined surplus. Such notice shall be prepared following the sample shown in § 101-47.4906, and shall be transmitted by a letter prepared following the sample shown in § 101-47.4906-1.

(1) Notice for property located in a State shall be given to the Governor of the State, to the county clerk or other appropriate official of the county in which the property is located, to the mayor or other appropriate official of the city or town in which the property is located, to the head of any other eligible local governmental body known to be interested in the property, and to appropriate State and areawide clearinghouses.

(2) Notice for property located in the District of Columbia shall be given to the Mayor of the District of Columbia and to appropriate clearinghouses.

(3) Notice for property located in the Virgin Islands shall be given to the Governor of the Virgin Islands and to appropriate clearinghouses.

(4) Notice for property located in the Commonwealth of Puerto Rico shall be given to the Governor of the Commonwealth of Puerto Rico and to appropriate clearinghouses.

(c) The notice prepared pursuant to § 101-47.303-2(b) shall also be posted in the post office which serves the area in which the property is located and in other prominent places such as the State capitol building, county building, courthouse, town hall, or city hall. The notice to be posted in the post office shall be mailed to the postmaster with a request that it be posted. Arrangements for the posting of the notice in other prominent places shall be as provided for in the transmittal letters (see § 101-47.4906-1) to eligible public agencies.

(d) A copy of each transmittal letter and notice given pursuant to paragraph (b) of this section shall be furnished to the proper regional or field office of (1) the Bureau of Outdoor Recreation (BOR) and the Fish and Wildlife Service of the Department of the Interior and (2) the Federal Aviation Administration and the Federal Highway Administration of the Department of Transportation concerned with the disposals of property to public agencies under the statutes in the notice.

(e) In the case of property which may be made available for assignment to the Secretary of Health, Education, and Welfare or the Secretary of the Interior for disposal under sections 203 (k)(1) or (k)(2) of the Act:

(1) The disposal agency shall inform the proper regional office of HEW or the field office of BOR 3 workdays in advance of the date the notice will be given to public agencies to permit similar notice to be given simultaneously by HEW or BOR to additional interested public bodies. HEW shall furnish notice to eligible nonprofit institutions.

(2) The disposal agency shall furnish the Departments with a copy of the postdated transmittal letter addressed to each public agency, copies (not to exceed 25) of the postdated notice, and a copy of the holding agency's Report of Excess Real Property (Standard Form 118, with accompanying schedules).

(3) As of the date of the transmittal letter and notice to public agencies, the Departments may proceed with their screening functions for any potential applicants and thereafter may make their determinations of need and receive applications.

(f) If the disposal agency is not informed, within the 20-calendar-day period provided in the notice, of the desire of a public agency to acquire the property under the provisions of the statutes listed in § 101-47.4905, or is not notified by HEW of a potential educational or public health requirement, or is not notified by the Department of the Interior of a potential public park or recreation requirement, it shall be assumed that no public agency or nonprofit institution desires to procure the property.

(g) The disposal agency shall promptly review each response of a public agency to the notice given pursuant to paragraph (b) of this section. The disposal agency shall determine what constitutes a reasonable period of time to allow the public agency to develop and submit a formal application for the property or its comments as to the compatibility of the disposal with its development plans and programs. When making such determination, the disposal agency shall give consideration to the potential suitability of the property for the use proposed, the length of time the public agency has stated it will require for its action, the protection and maintenance costs to the Government during such length of time, and any other relevant facts and circumstances. The disposal agency shall coordinate such review and determination with the proper regional office of any interested Federal agencies listed below:

(1) Bureau of Outdoor Recreation, Department of the Interior;

(2) Department of Health, Education, and Welfare;

(3) Federal Aviation Administration, Department of Transportation;

(4) Fish and Wildlife Service, Department of the Interior; and

(5) Federal Highway Administration, Department of Transportation.

(h) When the disposal agency has made a determination as to what constitutes a reasonable period of time to develop and submit a formal application, the public agency shall be so notified. The public agency shall be advised of the information required in connection with an application to procure the property.

(i) Upon receipt of the formal application for the property, the disposal agency shall consider and act upon it in accordance with the provisions of the statute and applicable regulations. If comments are received indicating that the disposal is incompatible with State, regional, or local development plans and programs, the disposal agency shall attempt to resolve the differences consistent with its statutory responsibilities in the disposal of surplus property.

[29 FR 16126, Dec. 3, 1964, as amended at 34 FR 11209, July 3, 1969; 35 FR 8486, June 2, 1970; 36 FR 9776, May 28, 1971; 40 FR 22256, May 22, 1975]

§ 101-47.303-2a Notice for zoning purposes.

(a) Where the surplus land is located in an urban area as defined in section 806 of the Act, that copy of the notice to public agencies required under § 101-47.303-2(b) which is sent to the head of the local governmental unit having jurisdiction over zoning and land use regulation in the area shall be accompanied by a copy of section 803 of the Act (see § 101-47.4906a) and the transmittal letter in such instances shall include an additional paragraph requesting information concerning zoning as set forth in § 101-47.4906b.

(b) Information which is furnished by the unit of general local government pursuant to the action taken in paragraph (a) of this section shall be included in Invitations for Bid in advertised sales. In negotiated sales, this information shall be presented to prospective purchasers during the course of the negotiations and shall be included in the sales agreements. In either instance, this information shall be followed by a written statement, substantially as follows:

> The above information was obtained from ———————— and is furnished pursuant to section 803 of the Federal Property and Administrative Services Act of 1949, as amended. The Government does not guarantee that the information is necessarily accurate or will remain unchanged. Any inaccuracies or changes in the above information shall not be cause for adjustment or rescission of any contract resulting from this Invitation for Bid or Sales Agreement.

(c) If no response to a request for such zoning information is received, the property may be offered for sale without furnishing such information to prospective purchasers. If the unit of general local government notifies the disposal agency of its desire to zone the property, it shall be afforded a 30-calendar-day period (in addition to the 20-calendar days afforded in the notice of surplus determination) to issue such zoning regulations. If the zoning cannot be accomplished within this time frame, the sale may proceed but the prospective purchasers shall be advised of the pending zoning of the property.

[34 FR 11209, July 3, 1969]

§ 101-47.303-3 Studies.

The disposal agency shall compile from the title documents and related papers appropriate information, for use in disposal actions, regarding all real property and related personal property available for disposal.

§ 101-47.303-4 Appraisal.

(a) Except as otherwise provided in this Subpart 101-47.3, the disposal agency shall in all cases obtain an appraisal of the fair market value, and in appropriate cases the fair annual rental, of property available for disposal.

(b) No appraisal need be obtained in any one of these situations:

(1) The property is classified and is to be disposed of as airport property.

(2) The property is suitable for historic monument purposes and is to be disposed of with the use limited to such purpose to a State, political subdivision instrumentality thereof, or municipality.

(3) The estimated fair market value of property to be offered on a competitive sale basis does not exceed $10,000.

(c) The disposal agency shall have the property appraised by experienced and qualified persons familiar with the types of property to be appraised by them. Any person engaged to collect or evaluate information pursuant to this subsection shall certify that he has no interest, direct or indirect, in the property which would conflict in any manner with the preparation and submission of an impartial appraisal report.

[29 FR 16126, Dec. 3, 1964, as amended at 34 FR 16545, Oct. 16, 1969]

§ 101-47.304 Advertised and negotiated disposals.

§ 101-47.304-1 Publicity.

(a) The disposal agency shall widely publicize all surplus real property and related personal property which becomes available for disposal hereunder, giving information adequate to inform interested persons of the general nature of the property and its possible uses, as well as any reservations, restrictions, and conditions imposed upon its disposal.

(b) A condensed statement of proposed sales of surplus real property by advertising for competitive bids, except where the estimated fair market value of the property is less than $2,500, shall be prepared and submitted, for inclusion in the U.S. Department of Commerce publication "Commerce Business Daily," to: U.S. Department of Commerce (S-Synopsis), Room 1300, 433 West Van Buren Street, Chicago, Illinois 60604.

§ 101-47.304-2 Soliciting cooperation of local groups.

The disposal agency may consult with local groups and organizations and solicit their cooperation in giving wide publicity to the proposed disposal of the property.

§ 101-47.304-3 Information to interested persons.

The disposal agency shall, upon request, supply to bona fide potential purchasers and lessees adequate preliminary information, and, with the cooperation of the holding agency where necessary, shall render such assistance to such persons as may enable them, insofar as feasible, to obtain adequate information regarding the property. The disposal agency shall establish procedures so that all persons showing due diligence are given full and complete opportunity to make an offer.

§ 101-47.304-4 Invitation for offers.

In all advertised and negotiated disposals, the disposal agency shall prepare and furnish to all prospective purchasers or lessees written invitations to make an offer, which shall contain or incorporate by reference all the terms and conditions under which the property is offered for disposal, including all provisions required by statute to be made a part of the offer. The invitation shall further specify the form of the disposal instrument, which specifications shall be in accordance with the appropriate provisions of §§ 101-47.307-1 and 101-47.307-2.

(a) When the disposal agency has determined that the sale of specific property on credit terms is necessary to avoid retarding the salability of the property and the price obtainable, the invitation shall provide for submission of offers on the following terms:

(1) Offers to purchase of less than $2,500 shall be for cash.

(2) When the purchase price is $2,500 or more but less than $10,000, a cash downpayment of not less than 25 percent shall be required with the balance due in 8 years or less.

(3) When the purchase price is $10,000 or more, a cash downpayment of not less than 20 percent shall be required with the balance due in 10 years or less.

(4) The purchaser shall furnish a promissory note secured by the purchase money mortgage or deed of trust on the property, whichever the Government determines to be appropriate.

(5) Payment will be in equal quarter-annual installments of the principal together with interest on the unpaid balance.

(6) Interest on the unpaid balance will be at the General Services Administration's established interest rate.

(b) Where the disposal agency has determined that an offering of the property on credit terms that do not meet the standards set forth in § 101-47.304-4(a) is essential to permit disposal of the property in the best interests of the Government, the invitation may provide for submission of offers on such alternate terms of payment as may be recommended by the disposal agency and approved by the Administrator of General Services on the basis of a detailed written statement justifying the need to deviate from the standard terms. The justification shall be based on the needs of the Federal Government as distinguished from the interests of the purchaser. The sale in those cases where the downpayment is less than 20 percent shall, unless otherwise authorized by the Administrator of General Services, be under a land contract which shall provide, in effect, for conveyance of title to the purchaser by quitclaim deed or other form of conveyance in accordance with the appropriate provisions of §§ 101-47.307-1 and 101-47.307-2 upon payment of one-third of the total purchase price and accrued interest, or earlier if the Government so elects, and execution and delivery of purchaser's note and purchase money mortgage (or bond and deed of trust) satisfactory to the Government, to secure payment of the unpaid balance of the purchase price.

(c) The disposal agency may increase the cash downpayment requirement or shorten the period of amortization whenever circumstances warrant and in the case of sales of farms, may provide for payment of the unpaid balance on equal semiannual or annual installment basis.

(d) Where a sale is to be made on credit, the invitation shall provide that the purchaser agrees by appropriate provisions to be incorporated in the disposal instruments that he will not lease (unless the property was offered without leasing restrictions by the Government) or sell the property, or any part thereof or interest therein, without prior written authorization of the Government.

(1) In appropriate cases, except as provided in § 101-47.304-4(d)(2), the invitation shall state that the disposal instrument may include provisions specifically authorizing leasing and/or resale and release of portions of the property as desired by the purchaser, provided that such provisions shall, in the judgment of the Government, be adequate to protect its security for the credit extended to the purchaser.

(2) In the case of timber or mineral lands, or lands containing other saleable products, the invitation shall state that the disposal instrument may specifically provide for granting future partial releases to permit the resale of timber, minerals, and other saleable products, or authorize the leasing of mineral rights, upon payment to the Government of such amounts as may be required by the Government but not less than the proceeds of any sale or lease less such amounts as may be determined by the Government to represent the cost of the sale or lease.

(3) All payments for such authorizations and/or releases shall, at the option of the Government, be applied against the unpaid balance of the indebtedness in inverse order of its maturity, or upon any delinquent installments of principal and interest, or used for payments of any delinquent taxes or insurance premiums.

(e) Where property is offered for disposal under a land contract or lease, the terms and conditions contained in the invitation shall provide that the purchaser or lessee will be required to pay to the proper taxing authorities or to the disposal agency, as may be directed, all taxes, payments in lieu of taxes (in the event of the existence or subsequent enactment of legislation authorizing such payments), assessments or similar charges which may be assessed or imposed on the property, or upon the occupier thereof, or upon the use or operation of the property and to assume all costs of operating obligations.

(f) Whenever property is offered for sale on credit terms or for lease, the terms and conditions contained in the invitation shall provide that the purchaser or lessee shall procure and maintain at his expense during the term credit is extended, or the period of the lease, such insurance in such amounts as may be required by the Government; required insurance shall be in companies acceptable to the Government and shall include such terms and provisions as may be required to provide coverage satisfactory to the Government.

[29 FR 16126, Dec. 3, 1964, as amended at 33 FR 12003, Aug. 23, 1968; 42 FR 47205, Sept. 20, 1977]

§ 101-47.304-5 Inspection.

All persons interested in the acquisition of surplus property available for disposal under this Subpart 101-47.3 shall, with the cooperation of the holding agency, where necessary, and with due regard to its program activities, be permitted to make a complete inspection of such property, including any available inventory records, plans, specifications, and engineering reports made in connection therewith, subject to any necessary restrictions in the interest of national security and subject to such rules as may be prescribed by the disposal agency. (See § 101-47.403.)

[36 FR 3894, Mar. 2, 1971]

§ 101-47.304-6 Submission of offers.

All offers to purchase or lease shall be in writing, accompanied by any required earnest money deposit, using the form prescribed by the disposal agency and, in addition to the financial terms upon which the offer is predicated, shall set forth the willingness of the offeror to abide by the terms, conditions, reservations, and restrictions upon which the property is offered, and shall contain such other information as the disposal agency may request.

§ 101-47.304-7 Advertised disposals.

(a) All disposals or contracts for disposal of surplus property, except as provided in §§ 101-47.304-9 and 101-47.304-10, shall be made after publicly advertising for bids.

(1) The advertising for bids shall be made at such time previous to the disposal or contract, through such methods and on such terms and conditions as shall permit that full and free competition which is consistent with the value and nature of the property involved. The advertisement shall designate the place to which the bids are to be delivered or mailed, and shall state the place, date, and time of public opening.

(2) All bids shall be publicly disclosed at the time and place stated in the advertisement.

(3) Award shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Government, price and other factors considered: *Provided,* That all bids may be rejected when it is in the public interest to do so.

(b) Disposal and contracts for disposal of surplus property may be made through contract auctioneers when authorized by GSA. The auctioneer retained under contract shall be required to publicly advertise for bids in accordance with the applicable provisions of this § 101-47.304-7.

§ 101-47.304-8 Report of identical bids.

(a) Executive Order No. 10936 of April 24, 1961 (26 FR 3555; 3 CFR 1959-1963 Comp.), requires executive agencies to report information on identical bids to the Department of Justice. When an invitation for bids for the sale of property results in the submission of identical bids under the conditions set forth in § 101-47.304-8(a) (1), (2), and (3), a copy of the invitation and a copy of the completed abstract of bids, with identical bids prices (other than nominal or token bids) circled, shall be forwarded to the Attorney General (a copy of the report to the Attorney General shall be transmitted simultaneously to the office of GSA for the region in which the property is located) within 20 days following the disposition of all bids received in response to the invitation involved:

(1) Where bids or offers were solicited through the formal sealed bid method of sale:

(2) Where the bid value of the line item(s) on which identical bids were received exceeds $2,500 (based on the apparent high bid received for such line item); and

(3) Where the total bid value of all line items covered by the invitation exceeds $10,000 (based on the apparent high bid received for each line item).

(b) As used in this § 101-47.304-8:

(1) The term "identical bids" means two or more bids received for the same line item of an invitation for bids issued under formal advertising procedures which:

(i) Appear on the face of the bids to be identical as to unit price or total amount; or

(ii) Are found, in the contracting agency's normal process of evaluating bids for award, to be identical as to unit price or total amount.

(2) The term "line item" means each item of property specified in an invitation for bids which, under the terms of

the invitation, is susceptible to a separate contract award.

(c) The Attorney General may, from time to time, request such supplemental information as he may deem necessary for effective enforcement of antitrust laws.

(d) The submission of information on identical bids is in addition to and is not to be considered as satisfying the requirements of § 101-47.301-2, for notifying the Attorney General and the Administrator of General Services regarding proposed disposals which might further a situation inconsistent with the anitrust laws.

§ 101-47.304-9 Negotiated disposals.

(a) Disposal agencies shall obtain such competition as is feasible under the circumstances in all negotiations of disposals and contracts for disposal of surplus property. They may dispose of surplus property by negotiation only in the following situations:

(1) When the estimated fair market value of the property involved does not exceed $1,000;

(2) When bid prices after advertising therefor are not reasonable (either as to all or some part of the property) or have not been independently arrived at in open competition;

(3) When the character or conditions of the property or unusual circumstances make it impractical to advertise publicly for competitive bids and the fair market value of the property and other satisfactory terms of disposal can be obtained by negotiation;

(4) When the disposals will be to States, Commonwealth of Puerto Rico, possessions, political subdivisions thereof, or tax-supported agencies therein, and the estimated fair market value of the property and other satisfactory terms of disposal are obtained by negotiation; or

(5) When negotiation is otherwise authorized by the Act or other law, such as:

(i) Disposals of power transmission lines for public or cooperative power projects (see § 101-47.308-1).

(ii) Disposals for public airport utilization (see § 101-47.308-2).

(b) Appraisal data required pursuant to the provisions of § 101-47.303-4, when needed for the purpose of conducting negotiations under § 101-47.304-9(a) (3), (4), or (5)(i) shall be obtained under contractual arrangements with experienced and qualified real estate appraisers familiar with the types of property to be appraised by them: *Provided, however,* That in any case where the cost of obtaining such data from a contract appraiser would be out of proportion to the expected recoverable value of the property, or if for any other reason employing a contract appraiser would not be in the best interest of the Government, the head of the disposal agency or his designee should authorize any other method of obtaining an estimate of the fair market value of the property or the fair annual rental he may deem to be proper.

[29 FR 16126, Dec. 3, 1964, as amended at 40 FR 22256, May 22, 1975]

§ 101-47.304-10 Disposals by brokers.

Disposals and contracts for disposal of surplus property through contract realty brokers, where authorized by GSA, shall be made in the manner followed in similar commercial transactions. Realty brokers retained under contracts shall be required to give wide public notice of availability of the property for disposal.

§ 101-47.304-11 Documenting determinations to negotiate.

The disposal agency shall document the factors leading to and the determination justifying disposal by negotiation of any surplus property under §§ 101-47.304-9 and 101-47.304-10, and shall retain such documentation in the files of the agency.

§ 101-47.304-12 Explanatory statements.

(a) Subject to the exceptions stated in § 101-47.304-12(b), the disposal agency shall prepare an explanatory statement, as required by section 203(e)(6) of the Act, of the circumstances of each proposed disposal by negotiation.

(b) No explanatory statement need be prepared for:

(1) A disposal of property having a fair market value of $1,000 or less; and

(2) A disposal of property authorized to be disposed of without advertising by any provision of law other than section 203(e) of the Act.

(c) An outline for the preparation of the explanatory statement is shown in § 101-47.4911. A copy of the statement shall be preserved in the files of the disposal agency.

(d) Each explanatory statement when prepared shall be submitted to the Administrator of General Services for review and transmittal by the Administrator of General Services by letters to the Committees on Government Operations and any other appropriate committees of the Senate and House of Representatives. The submission to the Administrator of General Services shall include such supporting data as may be relevant and necessary for evaluating the proposed action.

(e) Copies of the Administrator of General Services' transmittal letters to the committees of the Congress, § 101-47.304-12(d), will be furnished to the disposal agency.

(f) In the absence of adverse comment by an appropriate committee or subcommittee of the Congress on the proposed negotiated disposal, the disposal agency may consummate the sale on or after 35 days from the date of the Administrator of General Services letters transmitting the explanatory statement to the committees.

[29 FR 16126, Dec. 3, 1964, as amended at 41 FR 22354, June 3, 1976]

§ 101-47.305 Acceptance of offers.

§ 101-47.305-1 General.

(a) When the head of the disposal agency or his designee determines that bid prices (either as to all or some part of the property) received after advertising therefor or received in response to the action authorized in paragraph (b) of this § 101-47.305-1, are reasonable, i.e., commensurate with the fair market value of the property, and were independently arrived at in open competition, award shall be made with reasonable promptness by notice to the bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Government, price and other factors considered. Any or all offers may be rejected when the head of the disposal agency or his designee determines it is in the public interest to do so.

(b) Where the advertising does not result in the receipt of a bid at a price commensurate with the fair market value of the property, the highest bidder may, at the discretion of the head of the disposal agency or his designee and upon determination or responsiveness and bidder responsibility, be afforded an opportunity to increase his offered price. The bidder shall be given a reasonable period of time, not to exceed five working days, to respond. At the time the bidder is afforded an opportunity to increase his bid, all other bids shall be rejected and his bid deposits returned. Any sale at a price so increased may be concluded without regard to the provisions of §§ 101-47.304-9 and 101-47.304-12.

(c) The disposal agency shall allow a reasonable period of time within which the successful bidder shall consummate the transaction and shall notify the successful bidder of the period allowed.

(d) It is within the discretion of the head of the disposal agency or his designee to determine whether the procedure authorized by paragraph (b) of this § 101-47.305-1 is followed or whether the bids shall be rejected and the property reoffered for sale on a publicly advertised competitive bid basis in accordance with the provisions of § 101-47.304-7, or disposed of by negotiation pursuant to § 101-47.306-1, or offered for disposal under other applicable provisions of this Subpart 101-47.3.

§ 101-47.305-2 Equal offers.

"Equal offers" means two or more offers that are equal in all respects, taking into consideration the best interests of the Government. If equal acceptable offers are received for the same property, award shall be made by a drawing by lot limited to the equal acceptable offers received.

§ 101-47.305-3 Notice to unsuccessful bidders.

When an offer for surplus real property has been accepted, the disposal agency shall notify all other bidders of such acceptance and return their earnest money deposits, if any.

§ 101-47.306 Absence of acceptable offers.

§ 101-47.306-1 Negotiations.

(a) When the head of the disposal agency or his designee determines that bid prices after advertising therefor (including the action authorized by the provisions of § 101-47.305-1(b)) are not reasonable either as to all or some part of the property or were not independently arrived at in open competition and that a negotiated sale rather than a disposal by readvertising or under other applicable provisions of this subpart would better protect the public interest, the property or such part thereof may be disposed of by negotiated sale after rejection of all bids received: *Provided*, That no negotiated disposal may be made under this § 101-47.306-1 unless:

(1) Notification of the intention to negotiate and reasonable opportunity to negotiate shall have been given by the agency head or his designee to each responsible bidder who submitted a bid pursuant to the advertising;

(2) The negotiated price is higher than the highest rejected bid price offered by any responsible bidder, as determined by the head of the agency or his designee; and

(3) The negotiated price is the highest negotiated price offered by any responsible prospective purchaser.

(b) Any such negotiated disposal shall be subject to the applicable provisions of §§ 101-47.304-9 and 101-47.304-12.

§ 101-47.306-2 Defense Industrial Reserve properties.

In the event that any disposal agency is unable to dispose of any surplus industrial plant because of the application of the conditions and restrictions of the National Security Clause imposed under the Defense Industrial Reserve Act (50 U.S.C. 453), after making every practicable effort to do so, it shall notify the Secretary of Defense, indicating such modifications in the National Security Clause, if any, which in its judgment will make possible the disposal of the plant. Upon agreement by the Secretary of Defense to any or all of such modifications, the plant shall be reoffered for disposal subject to such modifications as may have been so agreed upon; or if such modifications are not agreed to, and upon request of the Secretary of Defense, the plant shall be transferred to the custody of GSA.

[40 FR 12078, Mar. 17, 1975]

§ 101-47.307 Conveyances.

§ 101-47.307-1 Form of deed or instrument of conveyance.

Disposals of real property shall be by quitclaim deed or deed without warranty in conformity with local law and practice, unless the disposal agency finds that another form of conveyance is necessary to obtain a reasonable price for the property or to render the title marketable, and unless the use of such other form of conveyance is approved by GSA.

§ 101-47.307-2 Conditions in disposal instruments.

(a) Where a sale is made upon credit, the purchaser shall agree by appropriate provisions to be incorporated in the disposal intruments, that he will not resell or lease (unless due to its character or type the property was offered without leasing restrictions by the disposal agency) the property, or any part thereof or interest therein, without the prior written authorization of the disposal agency and such disposal instruments in appropriate cases may specifically provide for such authorization and/or future partial releases to be granted on terms which will adequately protect the Government's security for the credit extended to the purchaser.

(b) Except for exchange transactions initiated by the Federal Government for its own benefit, any disposition of land, or land and improvements located thereon, to public bodies by negotiation pursuant to § 101-47.304-9(4) shall include in the deed or other disposal instrument a covenant substantially as follows:

> The Grantee covenants for itself, its heirs, successors, and assigns and every successor in interest to the property hereby conveyed,

or any part thereof, that the said Grantee and such heirs, successors, and assigns shall not discriminate upon the basis of race, color, religion, or national origin in the use, occupancy, sale, or lease of the property, or in their employment practices conducted thereon. This covenant shall not apply, however, to the lease or rental of a room or rooms within a family dwelling unit; nor shall it apply with respect to religion to premises used primarily for religious purposes. The United States of America shall be deemed a beneficiary of this covenant without regard to whether it remains the owner of any land or interest therein in the locality of the property hereby conveyed and shall have the sole right to enforce this covenant in any court of competent jurisdiction.

(c) Any deed, lease, or other instrument executed to dispose of property under this subpart, subject to reservations, restrictions, or conditions as to the future use, maintenance, or transfer of the property shall recite all covenants, representations, and agreements pertaining thereto.

[29 FR 16126, Dec. 3, 1964, as amended at 33 FR 4408, Mar. 12, 1968]

§ 101-47.307-3 Distribution of conformed copies of conveyance instruments.

(a) Two conformed copies of any deed, lease, or other instrument containing reservations, restrictions, or conditions regulating the future use, maintenance, or transfer of the property shall be provided the agency charged with enforcement of such reservations, restrictions, or conditions.

(b) A conformed copy of the deed, lease, or other conveyance instrument shall be provided to the holding agency by the disposal agency.

§ 101-47.307-4 Disposition of title papers.

The holding agency shall, upon request, deliver to the disposal agency all title papers in its possession relating to the property reported excess. The disposal agency may transfer to the purchaser of the property, as a part of the disposal transaction, the pertinent records authorized by § 101-11.404-2, to be so transferred. If the purchaser of the property wishes to obtain additional records, copies thereof may be furnished to the purchaser at an appropriate charge, as determined by the agency having custody of the records.

[33 FR 572, Jan. 17, 1968]

§ 101-47.307-5 Title transfers from Government corporations.

In order to facilitate the administration and disposition of real property when record title to such property is not in the name of the United States of America, the holding agency, upon request of the Administrator of General Services, shall deliver to the disposal agency a quitclaim deed, or other instrument of conveyance without warranty, expressed or implied, transferring all of the right, title, and interest of the holding agency in such property to the United States of America.

§ 101-47.307-6 Proceeds from disposals.

All proceeds (except so much thereof as may be otherwise obligated, credited, or paid under authority of those provisions of law set forth in section 204(b)-(e) of the Act (40 U.S.C. 485(b)-(e)), or the Independent Offices Appropriation Act, 1963 (76 Stat. 725) or in any later appropriation act) hereafter received from any sale, lease, or other disposition of surplus real property and related personal property shall be covered into the land and water conservation fund in the Treasury of the United States.

[30 FR 754, Jan. 23, 1965]

§ 101-47.308 Special disposal provisions.

§ 101-47.308-1 Power transmission lines.

(a) Pursuant and subject to the provisions of section 13(d) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(d)), which is continued in effect by section 602(a) of the Federal Property and Administrative Services Act of 1949, any State or political subdivision thereof, or any State or Government agency or instrumentality may certify to the disposal agency that a surplus power transmission line and the right-of-way acquired for its construction is needful for or adaptable to the requirements of a public or cooperative power project. Disposal agencies shall notify such State entities and Government agencies of the availability of such property in accordance with § 101-47.303-2.

(b) Notwithstanding any other provisions of this subpart, whenever a State or political subdivision thereof, or a State or Government agency or instrumentality certifies that such property is needful for or adaptable to the requirements of a public or cooperative power project, the property may be sold for such utilization at the fair market value thereof.

(c) In the event a sale cannot be accomplished by reason of the price to be charged or otherwise and the certification is not withdrawn, the disposal agency shall report the facts involved to the Administrator of General Services, for a determination by him as to the further action to be taken to dispose of the property.

(d) Any power transmission line and right-of-way not disposed of pursuant to the provisions of this section shall be disposed of in accordance with other applicable provisions of this subpart, including, if appropriate, reclassification by the disposal agency.

§ 101-47.308-2 Property for public airports.

(a) Pursuant and subject to the provisions of section 13(g) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(g)), which is continued in effect by section 602(a) of the Federal Property and Administrative Services Act of 1949 and amended by the Act of October 1, 1949, 63 Stat. 700, and section 1402(c) of the Federal Aviation Act of 1958, 72 Stat. 807 (50 U.S.C. App. 1622a-1622c), airport property may be conveyed or disposed of to a State, political subdivision, municipality, or tax-supported institution for a public airport. Airport property is any surplus real property including improvements and personal property located thereon as a part of the operating unit (exclusive of property the highest and best use of which is determined by the Administrator of General Services to be industrial and which shall be so classified for disposal without regard to the provisions of this section) which, in the determination of the Administrator of the Federal Aviation Administration is essential, suitable, or desirable for the development, improvement, operation, or maintenance of a public airport, as defined in the Federal Airport Act, as amended (49 U.S.C. 1101), or reasonably necessary to fulfill the immediate and foreseeable future requirements of the grantee for the development, improvement, operation, or maintenance of a public airport, including property needed to develop sources of revenue from nonaviation businesses at a public airport.

(b) The disposal agency shall notify eligible public agencies, in accordance with the provisions of § 101-47.303-2, that property which may be disposed of for use as a public airport under the Act of 1944, as amended, has been determined to be surplus. There shall be transmitted with the copy of each such notice when sent to the proper regional office of the Federal Aviation Administration, § 101-47.303-2(d), a copy of the holding agency's Report of Excess Real Property (Standard Form 118, with accompanying schedules).

(c) As promptly as possible after receipt of the copy of the notice given to eligible public agencies and the copy of Standard Form 118, the Federal Aviation Administration shall inform the disposal agency of the determination of the Administrator of the Federal Aviation Administration required by the provisions of the Act of 1944, as amended. The Federal Aviation Administration, thereafter, shall render such assistance to any eligible public agency known to have a need for the property for a public airport as may be necessary for such need to be considered in the development of a comprehensive and coordinated plan of use and procurement for the property. An application form and instructions for the preparation of an application shall be furnished to the eligible public agency by the disposal agency upon request.

(d) Whenever an eligible public agency has submitted a plan of use and application to acquire property for a public airport, in accordance with the provisions of § 101-47.303-2, the disposal agency shall transmit two copies of the plan and two copies of the application to the proper regional office of the Federal Aviation Administration. The Federal Aviation Administration shall promptly submit to the disposal agency a recommendation for disposal of the property for a public airport or shall inform the disposal agency that no such recommendation will be submitted.

(e) Upon receipt of such recommendation, the disposal agency may, with the approval of the head of the disposal agency or his designee, convey property recommended by the Federal Aviation Administration for disposal for a public airport to the eligible public agency, subject to the provisions of the Surplus Property Act of 1944, as amended. Approval for aviation areas shall be based on established FAA guidelines, criteria, and requirements for such areas. Approval for nonaviation revenue-producing areas shall be given only for such areas as are anticipated to generate net proceeds which do not exceed expected deficits for operation of the aviation area applied for at the airport.

(f) Any airport property not recommended by the Federal Aviation Administration for disposal pursuant to the provisions of this subsection for use as a public airport shall be disposed of in accordance with other applicable provisions of this subpart. However, the holding agency shall first be notified of the inability of the disposal agency to dispose of the property for use as a public airport and shall be allowed 30 days to withdraw the property from surplus or to waive any future interest in the property for public airport use.

(g) The Administrator of the Federal Aviation Administration has the sole responsibility for enforcing compliance with the terms and conditions of disposal, and for the reformation, correction, or amendment of any disposal instrument and the granting of releases and for taking any necessary action for recapturing such property in accordance with the provisions of the Act of October 1, 1949, 63 Stat. 700, and section 1402(c) of the Federal Aviation Act of 1958, 72 Stat. 807 (50 U.S.C. App. 1622a-1622c).

(h) In the event title to any such property is revested in the United States by reason of noncompliance with the terms and conditions of disposal, or other cause, the Administrator of the Federal Aviation Administration shall have accountability for the property and shall report the property to GSA as excess property in accordance with the provisions of § 101-47.202.

[29 FR 16126, Dec. 3, 1964, as amended at 42 FR 46305, Sept. 15, 1977]

§ 101-47.308-3 Property for use as historic monuments.

(a) Under section 203(k)(3) of the act, the disposal agency may, in its discretion, convey, without monetary consideration, to any State, political subdivision, instrumentalities thereof, or municipality, surplus real and related personal property for use as a historic monument for the benefit of the public provided the Secretary of the Interior has determined that the property is suitable and desirable for such use. No property shall be determined to be suitable or desirable for use as a historic monument except in conformity with the recommendation of the Advisory Board on National Parks, Historic Sites, Buildings, and Monuments. In addition, the disposal agency may authorize the use of property conveyed under subsection 203(k)(3) of the act or the Surplus Property Act of 1944, as amended, for revenue-producing activities if the Secretary of the Interior:

(1) Determines that such activities, as described in the applicant's proposed program of utilization, are compatible with the use of the property for historic monument purposes;

(2) Approves the grantee's plan for repair, rehabilitation, resotration, and maintenance of the property;

(3) Approves the grantee's plan for financing the repair, rehabilitation, restoration, and maintenance of the property. The plan shall not be approved unless it provides that incomes in excess of costs of repair, rehabilitation, restoration, and maintenance shall be used by the grantee only for public historic preservation, park, or recreational purposes: and

(4) Examines and approves the grantee's accounting and financial procedures for recording and reporting on revenue-producing activities.

(b) The disposal agency shall notify State and areawide clearinghouses and eligible public agencies, in accordance with the provisions of § 101-47.303-2, that property which may be disposed of for use as a historic monument has been determined to be surplus. A copy of the holding agency's Standard Form 118, Report of Excess Real Property, with accompanying schedules shall be transmitted with the copy of each such notice when it is sent to the proper regional office of the Bureau of Outdoor Recreation as provided in § 101-47.303-2(d).

(c) Upon request, the disposal agency shall furnish eligible public agencies with an application form to acquire real property for permanent use as a historic monument and advise the potential applicant that it should consult with the appropriate Bureau of Outdoor Recreation Regional Office early in the process of developing the application.

(d) Eligible public agencies shall submit the original and two copies of the completed application to acquire real property for use as a historic monument in accordance with the provisions of § 101-47.303-2 to the appropriate Bureau of Outdoor Recreation Regional Office which will forward one copy of the application to the appropriate regional office of the disposal agency. After consultation with the National Park Service, the Bureau of Outdoor Recreation shall promptly submit to the disposal agency the determination required of the Secretary of the Interior under section 203(k)(3) of the act for disposal of the property for a historic monument and compatible revenue-producing activities or shall inform the disposal agency that no such recommendation will be submitted.

(e) Upon receipt of the determination, the disposal agency may with the approval of the head of the disposal agency or his designee convey to an eligible public agency property determined by the Secretary of the Interior to be suitable and desirable for use as a historic monument for the benefit of the public and for compatible revenue-producing activities subject to the provisions of section 203(k)(3) of the Act.

(f) The Secretary of the Interior has the responsibility for enforcing compliance with the terms and conditions of disposals; the reformation, correction, or amendment of any disposal instrument; the granting of releases; and any action necessary for recapturing such property in accordance with the provisions of section 203(k)(4) of the act. Any such action shall be subject to the disapproval of the head of the disposal agency.

(g) The Department of the Interior shall notify the appropriate GSA regional Real Property Division, Public Buildings Service, immediately by letter when title to such historic property is to be revested in the United States for noncompliance with the terms and conditions of disposal or for other cause. The notification shall cite the legal and administrative actions that the Department must take to obtain full title and possession of the property. In addition, it shall include an adequate description of the property, including any improvements constructed thereon since the original conveyance to the grantee. Upon receipt of a statement from the Department that title to the property has revested, GSA will assume custody and accountability of the property. However, the grantee shall be required to provide protection and maintenance of the property until such time as the title reverts to the Federal Government, including the period of any notice of intent to revert. Such protection and maintenance shall, at a minimum, conform to to the standards prescribed in § 101-47.4913.

[40 FR 22257, May 22, 1975]

§ 101-47.308-4 Property for educational and public health purposes.

(a) The head of the disposal agency or his designee is authorized, in his discretion, to assign to the Secretary of Health, Education, and Welfare for disposal, under section 203(k)(1) of the Act, such surplus real property, including buildings, fixtures, and equipment situated thereon, as is recommended by the Secretary as being needed for school, classroom, or other educational use or for use in the protection of public health, including research.

(b) With respect to real property and related personal property which may be made available for assignment to the Secretary of Health, Education, and Welfare for disposal under the provisions of the Act of 1949 for educational or public health purposes to nonprofit institutions which have been held exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3)).

(1) The Department of Health, Education, and Welfare may notify eligible nonprofit institutions, in accordance with the provisions of § 101-47.303-2(e), that such property has been determined surplus.

(2) Any such notice given by the Department to eligible nonprofit institutions shall state that any requirement for educational or public health use of the property should be coordinated with the public agency declaring to the disposal agency an intent to develop and submit a comprehensive and coordinated plan of use and procurement for the property.

(c) With respect to real property and related personal property which may be made available for assignment to the Secretary of Health, Education, and Welfare for disposal under the provisions of the Act for educational or public health purposes to eligible public agencies—

(1) The disposal agency shall notify eligible public agencies, in accordance with the provisions of § 101-47.303-2(b) and (e), that such property has been determined to be surplus.

(2) Such notice to eligible public agencies shall state that any planning for an educational or public health use, involved in the development of a comprehensive and coordinated plan of use and procurement for the property, must be coordinated with the Department of Health, Education, and Welfare and that an application form for such use of the property and instructions for the preparation and submission of an application may be obtained from that Department.

(d) Whenever the disposal agency has not been informed by a public agency within the 20-day period stated in the notice given pursuant to the provisions of § 101-47.308-4 (b) or (c), that it desires to develop and submit a comprehensive and coordinated plan of use and procurement for the property, but the Department of Health, Education, and Welfare has notified the disposal agency within the said 20-day period of a potential educational or public health requirement for the property, the Department shall submit to the disposal agency within 25 days after the expiration of the 20-day period, a recommendation for assignment of the property to the Secretary of Health, Education, and Welfare, or shall inform the disposal agency, within the 25-day period, that a recommendation will not be made for assignment of the property to the Secretary.

(e) Whenever an eligible public agency has submitted a plan of use and procurement for property for an educational or public health requirement, in accordance with the provisions of § 101-47.303-2, the disposal agency shall transmit two copies of the plan to the regional office of the Department of Health, Education, and Welfare. The Department shall submit to the disposal agency, within 25 days after the date the plan is transmitted to the Department, a recommendation for assignment of the property to the Secretary of Health, Education, and Welfare or shall inform the disposal agency, within the 25-day period, that a recommendation will not be made for assignment of the property to the Secretary.

(f) Any recommendation submitted by the Department of Health, Education, and Welfare pursuant to § 101-47.308-4 (d) or (e) shall set forth complete information concerning the intended educational or public health use, including (1) identification of the property, (2) the name of the applicant and the size and nature of its program (3) the specific use planned, (4) the intended public benefit allowance, (5) the estimate of value upon which such proposed allowance is based, and (6) if the acreage or value of the property exceeds the standards established by the Secretary, an explanation therefor. The Department shall furnish to the holding agency a copy of the recommendation, unless the holding agency is also the disposal agency.

(g) Holding agencies shall cooperate to the fullest extent possible with representatives of the Department of

Health, Education, and Welfare in their inspection of such property and in furnishing information relating thereto.

(h) In the absence of a recommendation § 101-47.308-4 (d) or (e), the disposal agency shall proceed with appropriate disposal action.

(i) If the recommendation is approved, the disposal agency shall assign the property by letter or other document to the Secretary of Health, Education, and Welfare for disposal and shall inform the Secretary that there will be no objection to the proposed transfer. If the recommendation is disapproved, the disposal agency shall so notify the Secretary. Such assignment or notice shall be given within 30 days after the Department of Health, Education, and Welfare has submitted the recommendation. The disposal agency shall furnish to the holding agency a copy of the assignment or notice, unless the holding agency is also the disposal agency.

(j) The Department of Health, Education, and Welfare shall prepare the transfer document and take all other actions necessary to accomplish the transfer of the property within 60 days after the date of the assignment of the property to the Secretary of Health, Education, and Welfare.

(k) The Secretary of Health, Education, and Welfare has the responsibility for enforcing compliance with the terms and conditions of transfer; for the reformation, correction, or amendment of any transfer instrument; for the granting of releases; and for the taking of any necessary actions for recapturing such property in accordance with the provisions of section 203(k)(4) of the act. Any such action shall be subject to the disapproval of the head of the disposal agency. Notice to the head of the disposal agency by the Secretary of any action proposed to be taken shall identify the property affected, set forth in detail the proposed action, and state the reasons therefor.

(l) In each case of repossession under a terminated lease or reverter of title by reason of noncompliance with the terms and conditions of sale or other cause, the Department of Health, Education, and Welfare shall, at or prior to such repossession or reversion of title, provide the appropriate GSA regional Real Property Division, Public Buildings Service, with an accurate description of the real and related personal property involved. Standard Form 118, Report of Excess Real Property, and the appropriate schedules shall be used for this purpose. Upon receipt of advice from the Department that such property has been repossessed or title has reverted, GSA will assume custody and accountability of the property. However, the grantee shall be required to provide protection and maintenance for the property until such time as the title reverts to the Federal Government, including the period of any notice of intent to revert. Such protection and maintenance shall, at a minimum, conform to the standards prescribed in § 101-47.4913.

[29 FR 16126, Dec. 3, 1964, as amended at 31 FR 16780, Dec. 31, 1966; 40 FR 22257, May 22, 1975]

§ 101-47.308-5 Property for use as shrines, memorials, or for religious purposes.

(a) Surplus military chapels shall be segregated from other buildings, and shall be disposed of intact, separate and apart from the land, for use off-site as shrines, memorials, or for religious purposes, except in cases in which the chapel is located on surplus Government-owned land and the disposal agency determines that it may properly be used in place, in which cases a suitable area of land may be set aside for such purposes, and sold with the chapel.

(1) *Application.* Applications for the purchase of surplus chapels for use off-site or for use in-place shall be solicited by public advertising. All applications received in response to advertising shall be submitted to the Chief of Chaplains of the service which had jurisdiction over the property during the period of Government use thereof for military purposes and shall be disposed of in accordance with his recommendation. If no recommendation is received from the Chief of Chaplains within 30 days from the date of such submission, the disposal agency may select the purchaser on the basis of

the needs of the applicants and the best interests of the community to be served. If no application is received for transfer of the property for shrine, memorial, or religious uses, the Chief of Chaplains shall be notified accordingly, and disposal of the property shall be held in abeyance for a period not to exceed 60 days thereafter to afford additional time for the filing of applications. If no such application is received during the extended period, the property may be disposed of for uses other than shrine, memorial, or religious purposes pursuant to other applicable provisions of this subpart.

(2) *Sale price.* The sale price of the chapel shall be a price equal to its appraised fair market value in the light of conditions imposed relating to its future use and the estimated cost of removal, where required. The sale price of the land shall be a price equal to the appraised fair market value of the land based upon the highest and best use of the land at the time of the disposal.

(3) *Conditions of transfer.* All chapels disposed of pursuant to the authority of this section shall be transferred subject to the condition that during the useful life thereof they be maintained and used as shrines, memorials, or for religious purposes and not for any commercial, industrial, or other secular use; and that in the event a transferee fails to maintain and use the chapel for such purposes there shall become due and payable to the Government the difference between the appraised fair market value of the chapel, as of the date of the transfer, without restrictions on its use, and the price actually paid. Where the land on which the chapel is located is sold with the chapel, no conditions or restrictions on the use of the land shall be included in the deed.

(4) *Release of restrictions.* The disposal agency may release the conditions of transfer without payment of a monetary consideration upon a determination that the property no longer serves the purpose for which it was transferred or that such release will not prevent accomplishment of the purpose for which the property was transferred. Such determination shall be in writing, shall state the facts and circumstances involved, and shall be preserved in the files of the disposal agency.

(b) Notwithstanding the provisions of this § 101-47.308-5, a chapel and underlying land that is a component unit of a larger parcel of surplus real property recommended by the Secretary of Health, Education, and Welfare as being needed for educational or public health purposes, may be included in an assignment of such property, when so recommended by the Secretary, for disposal subject to the condition that the instrument of conveyance shall require that during the useful life of the chapel it shall be maintained and used by the grantee as a shrine, memorial, or for religious purposes.

§ 101-47.308-6 Property for housing and related facilities.

(a) Under section 414(a) of the Housing and Urban Development Act of 1969, as amended (40 U.S.C. 484b), the disposal agency may, in its discretion, transfer (assign) surplus real property to the Secretary of Housing and Urban Development, at his request, for sale or lease by him at its fair value for use in the provision of housing to be occupied by families or individuals of low or moderate income and for related public facilities and for related commercial and industrial facilities approved by the Secretary.

(b) Upon receipt of the notice of determination of surplus (§ 101-47.204-1(a)), HUD may solicit applications from eligible applicants.

(c) HUD shall notify the disposal agency within 20 calendar days after the date of the notice of determination of surplus if it is able to interest an eligible applicant in acquiring the property under section 414(a) of the 1969 Housing Act, as amended.

(d) Both holding and disposal agencies shall cooperate, to the fullest extent possible, with representatives of HUD in their inspection of such property and in furnishing information relating thereto.

(e) HUD shall advise the disposal agency and request transfer of the property for disposition under section 414(a) of the 1969 Housing Act, as amended, within 25 calendar days after the expiration of the 20-calendar-day period specified in § 101-47.308-6(c).

(f) Any request submitted by HUD pursuant to § 101-47.308-6(e) shall set forth complete information concerning the intended use, including: (1) Identification of the property; (2) a summary of the background of the proposed project including a map or plat of the property; (3) whether the property is to be sold or leased to a public body which will use the land in connection with the development of low-rent housing or related facilities assisted under the Housing Act of 1937, or under a State or local program found to have the same general purposes as the Federal program under such Act, or a purchaser or lessee who will use the land in connection with the development of housing or related facilities under condition (A), (B), or (C) of section 414 of the 1969 Housing Act, as amended; (4) HUD's best estimate of the fair value of the property and the price at which it will be sold by HUD; (5) how the property is to be used (i.e., single or multifamily housing units, the number of housing units proposed, types of facilities, and the estimated cost of construction); (6) an estimate as to the dates construction will be started and completed; and (7) what reversionary provisions will be included in the deed or the termination provisions that will be included in the lease. It is suggested that this information, except for the map or plat of the property, be furnished in the body of the letter transfer request signed by the Secretary of Housing and Urban Development. The above data will be used by GSA in preparing and submitting a statement relative to the proposed transaction to the Senate and House Committees on Government Operations prior to the transfer of the property to HUD.

(g) In the absence of a notice under § 101-47.308-6(c) or a request under § 101-47.308-6(e), the disposal agency shall proceed with the appropriate disposal action.

(h) If, after considering other uses for the property, the disposal agency determines that the property should be made available to HUD under section 414(a) of the 1969 Housing Act, as amended, it shall transfer the property to HUD.

(i) HUD shall bear the costs of any out-of-pocket expenses necessary to accomplish the transfer of the property, such as surveys, fencing, security, etc., of the remaining property or otherwise. In addition, HUD shall be responsible for any protection and maintenance expenses after the property is transferred to HUD.

(j) The disposal agency, if it approves the request, shall transfer the property by letter or other document to HUD for disposal under section 414(a) of the 1969 Housing Act, as amended. If the request is disapproved, the disposal agency shall so notify the Secretary. The disposal agency shall furnish the holding agency a copy of the transfer or notice of disapproval.

(k) HUD shall prepare the disposal document and take all other actions necessary to accomplish the disposition of the property under section 414(a) of the 1969 Housing Act, as amended, within 120 calendar days after the date of the transfer of the property to HUD.

(l) If the property conveyed under section 414(a) of the 1969 Housing Act, as amended, is used for any purpose other than the purpose for which it was sold or leased within a period of not less than 40 years of the conveyance, it shall revert to the United States (or, in the case of leased property, the lease shall terminate) unless the Secretary and the Administrator of General Services, after the expiration of the first 20 years of such period, approve the use of the property for such other purpose.

(m) HUD shall furnish the disposal agency two conformed copies of deeds, leases, or other instruments conveying property under section 414(a) of the 1969 Housing Act, as amended, and related documents containing reservations, restrictions, or conditions regulating the future use, maintenance, or transfer of the property.

(n) In each case of reverter of title by reason of noncompliance with the terms and conditions of sale or other cause, HUD shall, at or prior to such reversion of title, provide GSA with an accurate description of the real and related personal property involved. Standard Form 118, Report of Excess Real Property, and the appropriate schedules shall be used for this purpose. Upon receipt of advice from HUD that title has reverted, GSA will assume accountability therefor.

[36 FR 8042, Apr. 29, 1971]

§ 101-47.308-7 Property for use as public park or recreation areas.

(a) The head of the disposal agency or his designee is authorized, in his discretion, to assign to the Secretary of the Interior for disposal under section 203(k)(2) of the Act for public park or recreation purposes, such surplus real property, including buildings, fixtures, and equipment situated thereon, as is recommended by the Secretary as being needed for use as a public park or recreation area for disposal by the Secretary to a State, political subdivision, instrumentalities thereof, or municipality.

(b) The disposal agency shall notify established State and regional or metropolitan clearinghouses and eligible public agencies, in accordance with the provisions of § 101-47.303-2, that property which may be disposed of for use as a public park or recreation area has been determined to be surplus. There shall be transmitted with the copy of each such notice, when sent to the proper field office of the Bureau of Outdoor Recreation, a copy of the holding agency's Report of Excess Real Property (Standard Form 118, with accompanying schedules).

(c) An application form to acquire property for permanent use as a public park or recreation area and instructions for the preparation of the application shall be furnished by the Department of the Interior upon request.

(d) The Department of the Interior shall notify the disposal agency within 20 calendar days after the date of the notice of determination of surplus if it has an eligible applicant interested in acquiring the property under section 203(k)(2) of the Act.

(e) Holding agencies shall cooperate to the fullest extent possible with representatives of the Department of the Interior in their inspection of such property and in furnishing information relating thereto.

(f) The Department of the Interior shall advise the disposal agency and request assignment of the property for disposition under section 203(k)(2) of the Act, as amended, within 25 calendar days after the expiration of the 20-calendar-day period specified in paragraph (d) of this section.

(g) Any recommendation submitted by the Department of the Interior pursuant to paragraph (f) of this section shall set forth complete information concerning the plans for use of the property as a public park or recreation area, including (1) identification of the property, (2) the name of the applicant, (3) the specific use planned, and (4) the intended public benefit allowance. A copy of the application together with any other pertinent documentation shall be submitted with the recommendation.

(h) In the absence of a notice under paragraph (d) of this section or a request under paragraph (f) of this section, the disposal agency shall proceed with the appropriate disposal action.

(i) If, after considering other uses for the property, the disposal agency approves the recommendation, it shall assign the property by letter or other document to the Secretary of the Interior for disposal and shall inform the Secretary that there will be no objection to the proposed transfer. If the recommendation is disapproved, the disposal agency shall so notify the Secretary. Such assignment or notice shall be given within 30 calendar days after the Department of the Interior has submitted the recommendation. The disposal agency shall furnish to the holding agency a copy of the assignment or notice, unless the holding agency is also the disposal agency.

(j) The disposal agency may, where appropriate, make the assignment subject to the Department of the Interior requiring the applicant to bear the cost of any out-of-pocket expenses necessary to accomplish the assignment of the property, such as surveys, fencing, security, etc., of the remaining property or otherwise.

(k) The Department of the Interior shall place the applicant in possession of the property as soon as practicable and not to exceed 30 calendar days after the date of assignment of the property to the Department of the Interior in order to minimize the Government's expense of protection and maintenance of the property. As of the date of assumption of possession of the property, or the date of conveyance, whichever occurs first, the applicant shall assume responsibility for care and handling and all risks of loss or damage to the property, and shall have all obligations and liabilities of ownership.

(l) The Department of the Interior shall prepare the transfer document and take all other actions necessary to accomplish the transfer of the property within 60 calendar days after the date of the assignment of the property to the Secretary of the Interior.

(m) The deed of conveyance of any surplus real property transferred under the provisions of section 203(k)(2) of the Act shall provide that all such property shall be used and maintained for the purpose for which it was conveyed in perpetuity, and that in the event that such property ceases to be used or maintained for such purpose during such period, all or any portion of such property shall in its then existing condition, at the option of the United States, revert to the United States; and may contain such additional terms, reservations, restrictions, and conditions as may be determined by the Secretary of the Interior to be necessary to safeguard the interest of the United States.

(n) The Department of the Interior shall furnish the disposal agency two conformed copies of deeds, leases, or other instruments conveying property under section 203(k)(2) of the Act and related documents containing reservations, restrictions, or conditions regulating the future use, maintenance, or transfer of the property.

(o) The Secretary of the Interior has the responsibility for enforcing compliance with the terms and conditions of transfer; the reformation, correction, or amendment of any transfer instrument; the granting of releases; and any necessary actions for recapturing such property in accordance with the provisions of section 203(k)(4) of the act. Any such action shall be subject to the disapproval of the head of the disposal agency. Notice to the head of the disposal agency by the Secretary of any action proposed to be taken shall identify the property affected, set forth in detail the proposed action, and state the reasons therefor.

(p) The Department of the Interior shall notify the appropriate GSA regional Real Property Division, Public Buildings Service, immediately by letter when title to property transferred for use as a public park or recreation area is to be revested in the United States for noncompliance with the terms and conditions of disposal or for other cause. The notification shall cite the legal and administrative actions that the Department must take to obtain full title and possession of the property. In addition, it shall include an adequate description of the property, including any improvements constructed thereon since the original conveyance to the grantee. Upon receipt of a statement from the Department that title to the property has revested, GSA will assume custody and accountability of the property. However, the grantee shall be required to provide protection and maintenance for the property until such time as the title reverts to the Federal Government, including the period of any notice of intent to revert. Such protection and maintenance shall, at a minimum, conform to the standards prescribed in § 101-47.4913.

[36 FR 9776, May 28, 1971, as amended at 40 FR 22257, May 22, 1975]

§ 101-47.308-8 Property for displaced persons.

(a) Pursuant to section 218 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, the disposal agency is authorized to transfer surplus real property to a State agency, as hereinafter provided, for the purpose of providing replacement housing under title II of this Act for persons who are to be displaced by Federal or federally assisted projects.

(b) Upon receipt of the notice of surplus determination (§ 101-47.204-1(a)), any Federal agency having a requirement for such property for housing for displaced persons may solicit applications from eligible State agencies.

(c) Federal agencies shall notify the disposal agency within 20 calendar days after the date of the notice of determination of surplus if it is able to interest an eligible State agency in acquiring the property under section 218.

(d) Both holding and disposal agencies shall cooperate, to the fullest extent possible, with Federal and State agency representatives in their inspection of such property and in furnishing information relating thereto.

(e) The interested Federal agency shall advise the disposal agency and request transfer of the property to the selected State agency under section 218 within 25 calendar days after the expiration of the 20-calendar-day period specified in § 101-47.308-8(c).

(f) Any request submitted by a Federal agency pursuant to § 101-47.308-8(e) shall be in the form of a letter addressed to the appropriate GSA regional office and shall set forth the following information: (1) Identification of the property by name, location, and control number; (2) a request that the property be transferred to a specific State agency including the name and address and a copy of the State agency's application or proposal; (3) a certification by the appropriate Federal agency official that the property is required for housing for displaced persons pursuant to section 218, that all other options authorized under title II of the Act have been explored and replacement housing cannot be found or made available through those channels, and that the Federal or federally assisted project cannot be accomplished unless the property is made available for replacement housing; (4) any special terms and conditions that the Federal agency desires to include in conveyance instruments to insure that the property is used for the intended purpose; (5) identification by name and proposed location of the Federal or federally assisted project which is creating the requirement; (6) purpose of the project; (7) citation of enabling legislation or authorization for the project when appropriate; (8) a detailed outline of steps taken to obtain replacement housing for displaced persons as authorized under title II of the Act; and (9) arrangements that have been made to construct replacement housing on the surplus property and to insure that displaced persons will be provided housing in the development.

(g) In the absence of a notice under § 101-47.308-8(c) or a request under § 101-47.308-8(e), the disposal agency shall proceed with the appropriate disposal action.

(h) If, after considering other uses for the property, the disposal agency determines that the property should be made available for replacement housing under section 218, it shall transfer the property to the designated State agency on such terms and conditions as will protect the interest of the United States, including the payment or the agreement to pay to the United States all amounts received by the State agency from any sale, lease, or other disposition of the property for such housing. The sale, lease, or other disposition of the property by the State agency shall be at the fair market value as approved by the disposal agency, unless a compelling justification is offered for disposal of the property at less than fair market value, in which event the disposal may be made at such other value as is approved by the disposal agency.

(i) The State agency shall bear the costs of any out-of-pocket expenses necessary to accomplish the transfer of the property, such as costs of surveys, fencing, or security of the remaining property.

(j) The disposal agency, if it approves the request, shall transfer the property to the designated State agency. If the request is disapproved, the disposal agency shall notify the Federal agency requesting the transfer. The disposal agency shall furnish the holding agency a copy of the transfer or notice of disapproval, and the Federal agency requesting the transfer a copy of the transfer when appropriate.

[36 FR 11439, June 12, 1971]

§ 101-47.309 Disposal of leases, permits, licenses, and similar instruments.

The disposal agency may, subject to such reservations, restrictions, and conditions, if any, as the disposal agency deems necessary properly to protect the interests of the United States against liability under a lease, permit, license, or similar instrument:

(a) Dispose of the lease or other instrument subject to assumption by the transferee of the obligations in the lease or other instrument unless a transfer is prohibited by the terms of the lease or other instrument; or

(b) Terminate the lease or other instrument by notice or negotiated agreement; and

(c) Dispose of any surplus Government-owned improvements located on the premises in the following order by any one or more of the following methods:

(1) By disposition of all or a portion thereof to the transferee of the lease or other instrument (not applicable when the lease or other instrument is terminated);

(2) By disposition to the owner of the premises or grantor of a sublease, as the case may be, (i) in full satisfaction of a contractual obligation of the Government to restore the premises, or (ii) in satisfaction of a contractual obligation of the Government to restore the premises plus the payment of a money consideration to the Government by the owner or grantor, as the case may be, that is fair and reasonable under the circumstances, or (iii) in satisfaction of a contractual obligation of the Government to restore the premises plus the payment by the Government to the owner or grantor, as the case may be, of a money consideration that is fair and reasonable under the circumstances; or

(3) By disposition for removal from the premises.

Provided, That any negotiated disposals shall be subject to the applicable provisions of §§ 101-47.304-9 and 101-47.304-12. The cancellation of the Government's restoration obligations in return for the conveyance of the Government-owned improvements to the lessor is considered a settlement of a contractual obligation rather than a disposal of surplus real property and, therefore, is not subject to the provisions of §§ 101-47.304-9 and 101-47.304-12.

[29 FR 16126, Dec. 3, 1964, as amended at 31 FR 16780, Dec. 31, 1966]

§ 101-47.310 Disposal of structures and improvements on Government-owned land.

In the case of Government-owned land, the disposal agency may dispose of structures and improvements with the land or separately from the land: *Provided,* That prefabricated movable structures such as Butler-type storage warehouses, and quonset huts, and housetrailers (with or without under carriages) reported to GSA with the land on which they are located, may, in the discretion of GSA, be designated for disposal as personal property for off-site use.

§ 101-47.311 Disposal of residual personal property.

(a) Any related personal property reported to GSA on Standard Form 118 which is not disposed of by GSA as related to the real property, shall be designated by GSA for disposal as personal property.

(b) Any related personal property which is not disposed of by the holding agency, pursuant to the authority contained in § 101-47.302, or authority otherwise delegated by the Administrator of General Services as related to the real property, shall be disposed of under the applicable provisions of Part 101-45.

§ 101-47.312 Non-Federal interim use of property.

A lease or permit may be granted by the holding agency with the approval of the disposal agency, for non-Federal interim use of surplus property: *Provided,* That such lease or permit shall be for a period not exceeding 1 year and shall be made revocable on not to exceed 30 days' notice by the disposal agency: *And provided further,* That the use and occupancy will not interfere with, delay, or retard the disposal of the property. In such cases, an immediate right of entry to such property may be granted pending execution of the formal lease or permit. The lease or permit shall be for a money consideration and shall be on such other terms and conditions as are deemed appropriate properly to protect the interests of the United States. Any negotiated lease or permit shall be subject ot the applicable provisions of §§ 101-47.304-9 and 101-47.304-12, except that no explanatory statement to the appropriate committees of the Congress need be prepared with respect to a negotiated lease or permit providing for a net rental of $1,000 or less per month, and termination by either party on 30 days' notice.

[29 FR 16126, Dec. 3, 1964, as amended at 40 FR 12078, Mar. 17, 1975]

§ 101-47.313 Easements.

§ 101-47.313-1 Disposal of easements to owner of servient estate.

The disposal agency may dispose of an easement to the owner of the land which is subject to the easement when the continued use, occupancy, or control of the easement is not needed for the operation, production, use, or maintenance of property owned or controlled by the Government. A determination shall be made by the disposal agency as to whether the disposal shall be with or without consideration to the Government on the basis of all the circumstances and factors involved and with due regard to the acquisition cost of the easement to the Government. The extent of such consideration shall be regarded as the appraised fair market value of the easement. The disposal agency shall document the circumstances and factors leading to such determination and retain such documentation in its files.

§ 101-47.313-2 Grants of easements in or over Government property.

The disposal agency may grant easements in or over real property on appropriate terms and conditions: *Provided,* That where the disposal agency determines that the granting of such easement decreases the value of the property, the granting of the easement shall be for a consideration not less than the amount by which the fair market value of the property is decreased.

§ 101-47.314 Compliance.

§ 101-47.314-1 General.

Subject to the provisions of § 101-47.314-2(a), requiring referral of criminal matters to the Department of Justice, each disposal agency shall perform such investigatory functions as are necessary to insure compliance with the provisions of the Act and with the regulations, orders, directives, and policy statements of the Administrator of General Services.

§ 101-47.314-2 Extent of investigations.

(a) *Referral to other Government agencies.* All information indicating violations by any person of Federal criminal statutes, or violations of section 209 of the Act, including but not limited to fraud against the Government, mail fraud, bribery, attempted bribery, or criminal collusion, shall be referred immediately to the Department of Justice for further investigation and disposition. Each disposal agency shall make available to the Department of Justice, or to such other governmental investigating agency to which the matter may be referred by the Department of Justice, all pertinent information and evidence concerning the indicated violations; shall desist from further investigation of the criminal aspects of such matters except upon the request of the Department of Justice; and shall cooperate fully with the agency assuming final jurisdiction in establishing proof of criminal violations. After making the necessary referral to the Department of Justice, inquiries conducted by disposal agency compliance organizations shall be limited to obtaining information for administrative purposes. Where irregularities reported or discovered involve wrongdoing on the part of individuals holding positions in Government agencies other than the agency initiating the investigation, the case shall be reported immediately to the Administrator of General Services for an examination in the premises.

(b) *Compliance reports.* A written report shall be made of all compliance investigations conducted by each agency compliance organization. Each disposal agency shall maintain centralized files of all such reports at its respective departmental offices. Until otherwise directed by the Administrator of General Services, there shall be transmitted promptly to the Administrator of General Services one copy of any such report which contains information indicating criminality on the part of any person or indicating noncompliance with the Act or with the regulations, orders, directives and policy statements of the Administrator of General Services. In transmitting such reports to the Administrator of General Services, the agency shall set forth the action taken or contemplated by the agency to correct the improper conditions established by the investigation. Where any matter is referred to the Department of Justice, a copy of the letter of referral shall be transmitted to the Administrator of General Services.

§ 101-47.315 Covenant against contingent fees and related procedure.

The provisions of § 101-45.313 with respect to the covenant against contingent fees and related procedure are hereby made applicable to disposals of real and related personal property.

[31 FR 2656, Feb. 11, 1966]

Subpart 101-47.4—Management of Excess and Surplus Real Property

§ 101-47.400 Scope of subpart.

This subpart prescribes the policies and methods governing the physical care, handling, protection, and maintenance of excess real property and surplus real property, including related personal property, within the States of the Untied States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

§ 101-47.401 General provisions of subpart.

§ 101-47.401-1 Policy.

It is the policy of the Administrator of General Services:

(a) That the management of excess real property and surplus real property, including related personal property, shall provide only those minimum services necessary to preserve the Government's interest therein, realizable value of the property considered.

(b) To place excess real property and surplus real property in productive use through interim utilization: *Provided,* That such temporary use and occupancy will not interfere with, delay, or retard its transfer to a Federal agency or disposal.

(c) That excess and surplus real property which is dangerous to the public health or safety shall be destroyed or rendered innocuous.

§ 101-47.401-2 Definitions.

As used in this subpart, the following terms shall have the meanings set forth below:

(a) *Maintenance.* The upkeep of property only to the extent necessary to offset serious deterioration; also such operation of utilities, including water supply and sewerage systems, heating, plumbing, and air-conditioning equipment, as may be necessary for fire protection, the needs of interim tenants, and personnel employed at the site, and the requirements for preserving certain types of equipment.

(b) *Repairs.* Those additions or changes that are necessary for the protection and maintenance of property to deter or prevent excessive or rapid deterioration or obsolescence, and to restore property damaged by storm, flood, fire, accident, or earthquake.

§ 101-47.401-3 Taxes and other obligations.

Payments of taxes or payments in lieu of taxes (in the event of the enactment hereafter of legislation by Congress authorizing such payments upon Government-owned property which is not legally assessable), rents, and insurance premiums and other obligations pending transfer or disposal shall be the responsibility of the holding agency.

§ 101-47.401-4 Decontamination.

The holding agency shall be responsible for all expense to the Government and for the supervision of decontamination of excess and surplus real property that has been subjected to contamination with hazardous materials of any sort. Extreme care must be exercised in the decontamination, and in the management and disposal of contaminated property in order to prevent such properties becoming a hazard to the general public. The disposal agency shall be made cognizant of any and all inherent hazards involved relative to such property in order to protect the general public from hazards and to preclude the Government from any and all liability resulting from indiscriminate disposal or mishandling of contaminated property.

§ 101-47.401-5 Improvements or alterations.

Improvements or alterations which involve rehabilitation, reconditioning, conversion, completion, additions, and replacements in structures, utilities, installations, and land betterments, may be considered in those cases where disposal cannot otherwise be made, but no commitment therefor shall be entered into without prior approval of GSA.

§ 101-47.401-6 Interim use and occupancy.

When a revocable agreement to place excess real property or surplus real property in productive use has been made, the agency executing the agreement shall be responsible for the servicing thereof.

§ 101-47.402 Care and handling.

§ 101-47.402-1 Responsibility.

The holding agency shall retain custody and accountability for excess and surplus real property including related personal property and shall perform the physical care, handling, protection, maintenance, and repairs of such property pending its transfer to another Federal agency or its disposal. Guidelines for protection and maintenance of excess and surplus real property are in § 101-47.4913. The holding agency shall be responsible for complying with the requirements of the National Oil and Hazardous Substances Pollution Contingency Plan, initiating or cooperating with others in the actions prescribed for the prevention, containment, or remedy of hazardous conditions.

[36 FR 20676, Oct. 28, 1971]

§ 101-47.402-2 Expense of care and handling.

(a) The holding agency shall be responsible for the expense of physical care, handling, protection, maintenance, and repair of such property pending transfer or disposal for not more than 12 months, plus the period to the first day of the succeeding quarter of the fiscal year after the date that the property is available for immediate disposition. If the holding agency requests deferral of the disposal, continues to occupy the property beyond the excess date to the detriment of orderly disposal, or otherwise takes actions which result in a delay in the disposition, the period for which that agency is responsible for such expenses shall be extended by the period of delay. (See § 101-47.202-9.)

(b) In the event the property is not transferred to a Federal agency or disposed of during the period mentioned in § 101-47.402-2(a), the expense of physical care, handling, protection, maintenance, and repairs of such property from and after the expiration date of said period shall be reimbursed to the holding agency by the disposal agency.

[29 FR 16126, Dec. 3, 1964, as amended at 40 FR 12078, Mar. 17, 1975]

§ 101-47.403 Assistance in disposition.

The holding agency is expected to cooperate with the disposal agency in showing the property to prospective transferees or purchasers. Unless extraordinary expenses are incurred in showing the property, the holding agency shall absorb the entire cost of such actions. (See § 101-47.304-5.)

[36 FR 3894, Mar. 2, 1971]

Subpart 101-47.5—Abandonment, Destruction, or Donation to Public Bodies

§ 101-47.500 Scope of subpart.

(a) This subpart prescribes the policies and methods governing the abandonment, destruction, or donation to public bodies by Federal agencies of real property located within the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(b) The subpart does not apply to surplus property assigned for disposal to educational or public health institutions pursuant to section 203(k) of the Act.

§ 101-47.501 General provisions of subpart.

§ 101-47.501-1 Definitions.

(a) "No commercial value" means real property, including related personal property, which has no reasonable prospect of being disposed of at a consideration.

(b) "Public body" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, or any political subdivision, agency, or instrumentality of the foregoing.

§ 101-47.501-2 Authority for disposal.

Subject to the restrictions in § 101-47.502 and § 101-47.503, any Federal agency having control of real property which has no commercial value or of which the estimated cost of continued care and handling would exceed the estimated proceeds from its sale, is authorized:

(a) To abandon or destroy Government-owned improvements and related personal property located on privately owned land.

(b) To destroy Government-owned improvements and related personal property located on Government-owned land. Abandonment of such property is not authorized.

(c) To donate to public bodies any real property (land and/or improvements and related personal property), or interests therein, owned by the Government.

§ 101-47.501-3 Dangerous property.

No property which is dangerous to public health or safety shall be abandoned, destroyed, or donated to public bodies pursuant to this subpart without first rendering such property innocuous or providing adequate safeguards therefor.

§ 101-47.501-4 Findings.

(a) No property shall be abandoned, destroyed, or donated by a Federal agency under § 101-47.501-2, unless a duly authorized official of that agency finds, in writing, either that (1) such property has no commercial value, or (2) the estimated cost of its continued care and handling would exceed the estimated proceeds from its sale. Such finding shall not be made by any official directly accountable for the property covered thereby.

(b) Whenever all the property proposed to be disposed of hereunder by a Federal agency at any one location at any one time had an original cost (estimated if not known) of more than $1,000, findings made under § 101-47.501-4(a), shall be approved by a reviewing authority before any such disposal.

§ 101-47.502 Donations to public bodies.

§ 101-47.502-1 Cost limitations.

No improvements on land or related personal property having an original cost (estimated if not known) in excess of $250,000 and no land, regardless of cost, shall be donated to public bodies without the prior concurrence of GSA. The request for such concurrence shall be made to the regional office of GSA for the region in which the property is located.

§ 101-47.502-2 Disposal costs.

Any public body receiving improvements on land or related personal property pursuant to this subpart shall pay the disposal costs incident to the donation, such as dismantling, removal, and the cleaning up of the premises.

§ 101-47.503 Abandonment and destruction.

§ 101-47.503-1 General.

(a) No improvements on land or related personal property shall be abandoned or destroyed by a Federal agency unless a duly authorized official of that agency finds, in writing, that donation of such property in accordance with the provisions of this subpart is not feasible. This finding shall be in addition to the finding prescribed in § 101-47.501-4. If at any time prior to actual abandonment or destruction the donation of the property pursuant to this subpart becomes feasible, such donation will be accomplished.

(b) No abandonment or destruction shall be made in a manner which is detrimental or dangerous to public health or safety or which will cause infringement of the rights of other persons.

(c) The concurrence of GSA shall be obtained prior to the abandonment or destruction of improvements on land or related personal property (1) which had an original cost (estimated if not known) of more than $50,000, or (2) which are of permanent type construction, or (3) where their retention would enhance the value of the underlying land, if it were to be made available for sale or lease.

§ 101-47.503-2 Notice of proposed abandonment or destruction.

Except as provided in § 101-47.503-3, improvements on land or related personal property shall not be abandoned or destroyed by a Federal agency until after public notice of such proposed abandonment or destruction. Such notice shall be given in the area in which the property is located, shall contain a general description of the property to be abandoned or destroyed, and shall include an offering of the property for sale. A copy of such notice shall be given to the regional office of GSA for the region in which the property is located.

§ 101-47.503-3 Abandonment or destruction without notice.

If (a) the property had an original cost (estimated if not known) of not more than $1,000; or (b) its value is so low or the cost of its care and handling so great that its retention in order to post public notice is clearly not economical; or (c) immediate abandonment or destruction is required by considerations of health, safety, or security; or (d) the assigned mission of the agency might be jeopardized by the delay, and a finding with respect to paragraph (a), (b), (c), or (d) of this section, is made in writing by a duly authorized official of the Federal agency and approved by a reviewing authority, abandonment or destruction may be made without public notice. Such a finding shall be in addition to the findings prescribed in §§ 101-47.501-4 and 101-47.503-1(a).

Subpart 101-47.6—Delegations

§ 101-47.600 Scope of subpart.

This subpart sets forth the special delegations of authority granted by the Administrator of General Services to other agencies for the utilization and disposal of certain real property pursuant to the Act.

§ 101-47.601 Delegation to Department of Defense.

(a) Authority is delegated to the Secretary of Defense to determine that excess real property and related personal property under the control of the Department of Defense having a total estimated fair market value, including all the component units of the property, of less than $1,000 as determined by the Department of Defense, is not required for the needs and responsibilities of Federal agencies; and thereafter to dispose of said property by means deemed advantageous to the United States.

(b) Prior to such determination and disposal, the Secretary of Defense shall take steps as may be appropriate to determine that the property is not required for the needs of any Federal agency.

(c) The authority conferred in this § 101-47.601 shall be exercised in accordance with the Act and regulations issued pursuant thereto, except that the reporting of such property to GSA under Subpart 101-47.2 shall not be required.

(d) The authority delegated in this § 101-47.601 may be redelegated to any officer or employee of the Department of Defense.

[29 FR 16126, Dec. 3, 1964, as amended at 31 FR 16780, Dec. 31, 1966]

§ 101-47.602 Delegation to the Department of Agriculture.

(a) Authority is delegated to the Secretary of Agriculture to determine that excess real property and related personal property under the control of the Department of Agriculture having a total estimated fair market value, including all the component units of the property, of less than $1,000 as determined by the Department of Agriculture, is not required for the needs and responsibilities of Federal agencies; and thereafter to dispose of said property by means deemed advantageous to the United States.

(b) Prior to such determination and disposal, the Secretary of Agriculture shall take steps as may be appropriate to determine that the property is not required for the needs of any Federal agency.

(c) The authority conferred in this § 101-47.602 shall be exercised in accordance with the Act and regulations issued pursuant thereto, except that the reporting of such property to GSA under Subpart 101-47.2 shall not be required.

(d) The authority delegated in this § 101-47.602 may be redelegated to any officer or employee of the Department of Agriculture.

[29 FR 16126, Dec. 3, 1964, as amended at 31 FR 16780, Dec. 31, 1966]

§ 101-47.603 Delegation to the Department of the Interior.

(a) Authority is delegated to the Secretary of the Interior to determine that excess real property and related personal property under the control of the Department of the Interior having a total estimated fair market value, including all the component units of the property, of less than $1,000 as determined by the Department of the Interior, is not required for the needs and responsibilities of Federal agencies; and thereafter to dispose of said property by means deemed advantageous to the United States.

(b) Prior to such determination and disposal, the Secretary of the Interior shall take steps as may be appropriate to determine that the property is not required for the needs of any Federal agency.

(c) The authority conferred in this § 101-47.603 shall be exercised in accordance with the Act and regulations issued pursuant thereto, except that the reporting of such property to GSA under Subpart 101-47.2 shall not be required.

(d) The authority delegated in this § 101-47.603 may be redelegated to any officer or employee of the Department of the Interior.

[29 FR 16126, Dec. 3, 1964, as amended at 31 FR 16780, Dec. 31, 1966]

§ 101-47.604 Delegation to the Department of the Interior and the Department of Health, Education, and Welfare.

(a) The Secretary of the Interior and the Secretary of Health, Education, and Welfare, are delegated authority to transfer and to retransfer to each other, upon request, any of the property of either agency which is being used and will continue to be used in the administration of any functions relating to the Indians. The term "property," as used in this § 101-47.604, includes real property and such personal property as the Secretary making the transfer or retransfer determines to be related personal property.

(b) This authority shall be exercised only in connection with property which the Secretary transferring or retransferring such property determines:

(1) Comprises a functional unit;

(2) Is located within the United States; and

(3) Has an acquisition cost of $100,000 or less: *Provided, however,* That the transfer or retransfer shall not include property situated in any area which is recognized as an urban area or place for the purpose of the most recent decennial census.

(c) No screening of the property as required by the regulations in this Part 101-47 need be conducted, it having been determined that such screening among Federal agencies would accomplish no useful purpose since the property which is subject to transfer or retransfer hereunder will continue to be used in the administration of any functions relating to the Indians.

(d) Any such transfer or retransfer of a specific property shall be without reimbursement except:

(1) Where funds programmed and appropriated for acquisition of the property are available to the Secretary requesting the transfer or retransfer; or

(2) Whenever reimbursement at fair value is required by Subpart 101-47.2.

(e) Where funds were not programed and appropriated for acquisition of the property, the Secretary requesting the transfer or retransfer shall so certify. Any determination necessary to carry out the authority contained in this § 101-47.604 which otherwise would be required under this part to be made by GSA shall be made by the Secretary transferring or retransferring the property.

(f) The authority conferred in this § 101-47.604 shall be exercised in accordance with such other provisions of the regulations of GSA issued pursuant to the Act as may be applicable.

(g) The Secretary of the Interior and the Secretary of Health, Education, and Welfare, are authorized to redelegate any of the authority contained in this § 101-47.604 to any officers or employees of their respective departments.

Subpart 101-47.7—Conditional Gifts of Real Property to Further the Defense Effort

§ 101-47.700 Scope of subpart.

This subpart provides for acceptance or rejection on behalf of the United States of any gift of real property offered on condition that it be used for a particular defense purpose and for subsequent disposition of such property (Act of July 27, 1954, (50 U.S.C. 1151-1156)).

[40 FR 12079, Mar. 17, 1975]

§ 101-47.701 Offers and acceptance of conditional gifts.

(a) Any agency receiving an offer of a conditional gift of real property for a particular defense purpose within the purview of the Act of July 27, 1954, shall notify the appropriate regional office of GSA and shall submit a recommendation as to acceptance or rejection of the gift.

(b) Prior to such notification, the receiving agency shall acknowledge receipt of the offer and advise the donor of its referral to the GSA regional office, but should not indicate acceptance or rejection of the gift on behalf of the United States. A copy of the acknowledgment shall accompany the notification and recommendation to the regional office.

(c) When the gift is determined to be acceptable and it can be accepted and used in the form in which offered, it will be transferred without reimbursement to an agency designated by GSA for use for the particular purpose for which it was donated.

(d) If the gift is one which GSA determines may and should be converted to money, the funds, after conversion, will be deposited with the Treasury Department for transfer to an appropriate account which will best effectuate the intent of the donor, in accordance with Treasury Department procedures.

§ 101-47.702 Consultation with agencies.

Such conditional gifts of real property will be accepted or rejected on behalf of the United States or transferred to an agency by GSA, only after consultation with the interested agencies.

§ 101-47.703 Advice of disposition.

GSA will advise the donor and the agencies concerned of the action taken with respect to acceptance or rejection of the conditional gift and of its final disposition.

§ 101-47.704 Acceptance of gifts under other laws.

Nothing in this Subpart 101-47.7 shall be construed as applicable to the acceptance of gifts under the provisions of other laws.

Subpart 101-47.8—Identification of Unneeded Federal Real Property

§ 101-47.800 Scope of subpart.

This subpart is designed to implement section 3(a) of Executive Order 11724 (see § 101-47.4914), which provides, in part, that the Administrator of General Services shall (a) conduct surveys of real property holdings of executive agencies on a continuing basis and in a manner consistent with the needs of the Federal Property Council to identify properties which are not utilized, are underutilized, or are not being put to their optimum use and (b) make reports to the President, through the Federal Property Council, describing any property or portion thereof which has not been reported excess to the requirements of the holding agency and which, in the judgment of the Administrator is either not utilized, is underutilized, or is not being put to optimum use, and which he recommends should be reported as excess property. The terms "executive agency," "property," and "excess property" as used in this subpart are defined in Executive Order 11724. The provisions of this subpart are presently limited to fee-owned properties and supporting leaseholds and lesser interests located within the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands. The scope of this subpart may be enlarged at a later date to include properties in additional geographical areas and other interests in property.

[40 FR 12079, Mar. 17, 1975]

§ 101-47.801 Standards.

Each executive agency shall use the following standards in identifying unneeded Federal property.

(a) *Definitions*—(1) *Not utilized.* "Not utilized" means an entire property or portion thereof, with or without improvements, not occupied for current program purposes of the accountable executive agency, or occupied in caretaker status only.

(2) *Underutilized.* "Underutilized" means an entire property or portion thereof, with or without improvements:

(i) Which is used only at irregular periods or intermittently by the accountable executive agency for current program purposes of that agency; or

(ii) Which is used for current program purposes that can be satisfied with only a portion of the property.

(3) *Not being put to optimum use.* "Not being put to optimum use" means an entire property or portion thereof, with or without improvements, which:

(i) Even though utilized for current program purposes of the accountable executive agency is of such nature or value, or is in such a location that it could be utilized for a different significantly higher and better purpose; or

(ii) The costs of occupying are substantially higher than would be applicable for other suitable properties that could be made available to the accountable executive agency through transfer, purchase, or lease with total net savings to the Government after consideration of property values as well as costs of moving, occupancy, efficiency of operations, environmental effects, regional planning, and employee morale.

(b) *Guidelines.* The following general guidelines shall be considered by each executive agency in its annual review (see § 101-47.802):

(1) Is the property being put to its highest and best use?

(i) Consider such aspects as surrounding neighborhood, zoning, and other environmental factors;

(ii) Is present use compatible with State, regional, or local development plans and programs?

(iii) Consider whether Federal use of the property would be justified if rental charge equivalent to commercial rates were added to the program costs for the function it is serving.

(2) Are operating and maintenance costs excessive compared with those of other similar facilities?

(3) Will contemplated program changes alter property requirements?

(4) Is all of the property essential for program requirements?

(5) Will local zoning provide sufficient protection for necessary buffer zones if a portion of the property is released?

(6) Are buffer zones kept to a minimum?

(7) Is the present property inadequate for approved future programs?

(8) Can net savings to the Nation be realized through relocation considering property prices or rentals, costs of

moving, occupancy, and increase in efficiency of operations?

(9) Have developments on adjoining nonfederally owned land or public access or road rights-of-way granted across the Government-owned land rendered the property or any portion thereof unsuitable or unnecessary for program requirements?

(10) If Federal employees are housed in Government-owned residential property, is the local market willing to acquire Government-owned housing or can it provide the necessary housing and other related services that will permit the Government-owned housing area to be released? (Provide statistical data on cost and availability of housing on the local market.)

(11) Can the land be disposed of and program requirements satisfied through reserving rights and interests to the Government in the property if it is released?

(12) Is a portion of any property being retained primarily because the present boundaries are marked by the existence of fences, hedges, roads, and utility systems?

(13) Is any land being retained merely because it is considered undesirable property due to topographical features or to encumbrances for rights-of-way or because it is believed to be not disposable?

(14) Is land being retained merely because it is landlocked?

(15) Is there land or space in Government-owned buildings that can be made available for utilization by others within or outside Government on a temporary basis?

[35 FR 5261, Mar. 28, 1970, as amended at 37 FR 5030, Mar. 9, 1972; 40 FR 12079, Mar. 17, 1975]

§ 101-47.802 Procedures.

(a) *Executive agency annual review.* Each executive agency shall make an annual review of its property holdings.

(1) In making such annual reviews, each executive agency shall use the standards set forth in § 101-47.801 in identifying property that is not utilized, is underutilized, or is not being put to its optimum use.

(2) A written record of the review of each individual facility shall be prepared. The written review record shall contain comments relative to each of the above guidelines and an overall map of the facility showing property boundaries, major land uses, improvements, safety zones, proposed uses, and regulations or other authorizations that sanction the requirement for and usage made of or proposed for individual parcels of the property. A copy of the review record shall be made available to GSA upon request or to the GSA survey representative at the time of the survey of each individual facility.

(3) Each executive agency shall, as a result of its annual review, determine, in its opinion, whether any portion of its property is not utilized, is underutilized, or is not being put to optimum use. With regard to each property, the following actions shall be taken:

(i) When the property or a portion thereof is determined to be not utilized, the executive agency shall:

(A) Initiate action to release the property; or

(B) Hold for a foreseeable future program use upon determination by the head of the executive agency. Such determination shall be fully and completely documented and the determination and documentation kept available for GSA review (see § 101-47.802(b)(3)(ii)(B)). If property of this type which is being held for future use can be made available for temporary use by others, the executive agency shall notify the appropriate regional office of GSA before any permit or license for use is issued to another Federal agency or before any out-lease is granted by the executive agency. GSA will advise the executive agency whether the property should be permitted to another Federal agency for temporary use and will advise the executive agency the name of the Federal agency to whom the permit shall be granted.

(ii) When the property is determined to be underutilized, the executive agency shall:

(A) Limit the existing program to a reduced area and initiate action to release the remainder; or

(B) Shift present use imposed on the property to another property so that release action may be initiated for the property under review.

(iii) When, based on an indepth study and evaluation, it is determined that the property is not being put to its optimum use, the executive agency shall relocate the current program whenever a suitable alternate site, necessary funding, and legislative authority are available to accomplish that purpose. When the site, funding, or legislative authority are not available, a special report shall be made to the appropriate regional office of GSA for its consideration in obtaining possible assistance in accomplishing relocation.

(b) *GSA survey.* Pursuant to section 3(a) of Executive Order 11724, GSA will conduct, on a continuing basis, a survey of real property holdings of all executive agencies to identify properties which, in the judgment of the Administrator of General Services, are not utilized, are underutilized, or are not being put to their optimum use.

(1) Surveys by GSA of the real property holdings of all executive agencies will be conducted by officials of the regional offices of GSA for the property within the geographical area of each region.

(i) The head of the field office of the agency having accountability for the facility will be notified in advance of a scheduled GSA survey and furnished at that time with copies of these regulations.

(ii) The head of that field office shall arrange for an appropriate official of the executive agency having necessary authority, and who is sufficiently knowledgeable concerning the property and current and future program uses of the property, to be available to assist the GSA representative in his survey.

(2) [Reserved]

(3) To facilitate the GSA survey, executive agencies shall:

(i) Cooperate fully with GSA in its conduct of the surveys; and

(ii) Make available to the GSA survey representative records and information pertinent to the description and to the current and proposed use of the property such as:

(A) Brief description of facilities (number of acres, buildings, and supporting facilities);

(B) The most recent utilization report or analysis made of the property including the written record of the annual review made by the agency, pursuant to § 101-47.802(a), together with any supporting documents;

(C) Detail maps which show property boundaries, major land uses, improvements, safety zones, proposed uses, and regulations or other authorizations that sanction the usage made or proposed for individual parcels or the entire property; drawings; and layout plans.

(4) Upon receipt of notification of the pending GSA survey, the executive agency shall initiate action immediately to provide the GSA representative with an escort into classified or sensitive areas or to inform that representative of steps that must be taken to obtain necessary special security clearances or both.

(5) Upon completion of the field work for the survey:

(i) The GSA representative will so inform the executive agency official designated pursuant to § 101-47.802(b)(1). To avoid any possibility of misunderstanding or premature publicity, conclusions and recommendations will not be discussed with this official. However, survey teams should discuss the facts they have obtained with local officials at the end of the survey to ensure that all information necessary to conduct a complete survey is obtained. The GSA regional office will evaluate and incorporate the results of the field work into a survey report and forward the survey report to the GSA Central Office.

(ii) The GSA Central Office will notify the head of the executive agency or his designee, in writing, of the survey recommendation. A copy of the survey report will be enclosed when a recommendation is made that some or all of the property should be reported excess, and the comments of the executive agency will be requested thereon. The executive agency will be afforded a period of 30 workdays from the date of the notice in which to submit such comments. If the case is resolved, GSA Central Office will notify the head of the executive agency or his designee, in writing, of the resolution, and the case will be completed at such time start as the agency completes all resolved excess and/or disposal actions. The agency will be afforded a period of 90 calendar days from the date of the notice to complete such actions.

(iii) If the case is not resolved, GSA Central Office will submit the case to the Office of Management and Budget (OMB) for review. If the case is resolved as a result of the submission to OMB, the GSA Central Office will notify the head of the executive agency or his designee, in writing, of the resolution, and the case will be completed at such time as the agency completes all resolved excess and/or disposal actions. The agency will be afforded a period of 90 calendar days from the date of the notice to complete such actions.

(iv) If the case is not resolved, the GSA Central Office will notify the head of the executive agency or his designee, in writing. A copy of a draft action paper will be enclosed and the position of the executive agency will be requested thereon. The executive agency will be afforded a period of 20 calendar days from the date of the notice in which to submit its position. If the case is resolved, the GSA Central Office will notify the head of the executive agency or his designee, in writing, of the resolution, and the case will be completed at such time as the agency completes all resolved excess and/or disposal actions. The agency will be afforded a period of 90 calendar days from the date of the notice to complete such actions.

(v) If the case is not resolved, the GSA Central Office will submit a report on the case to the Federal Property Council for submission by the Council of appropriate reports and recommendations to the President as prescribed in section 3(2) of Executive Order 11724. The head of the executive agency or his designee will be notified of the resolution, and the case will be completed at such time as the agency completes all resolved excess and/or disposal actions. The agency will be afforded a period of 90 calendar days from the date of the notice to complete such actions.

[35 FR 5261, Mar. 28, 1970, as amended at 36 FR 7215, Apr. 16, 1971; 37 FR 5030, Mar. 9, 1972; 40 FR 12079, Mar. 17, 1975; 42 FR 40698, Aug. 11, 1977]

Subparts 101–47.9—101–47.48—[Reserved]

Subpart 101–47. 49—Illustrations

§ 101–47.4900 Scope of subpart.

This subpart sets forth certain forms and illustrations referred to previously in this part. Agency field offices should obtain the GSA forms prescribed in this subpart by submitting their future requirements to their Washington headquarters office which will forward consolidated annual requirements to the General Services Administration (BRAF), Washington, DC 20405. Standard forms should be obtained from the nearest GSA supply distribution facility.

[40 FR 12080, Mar. 17, 1975]

§ 101–47.4901 [Reserved]

§ 101–47.4902 Standard Form 118, Report of Excess Real Property.

§ 101–47.4902–1 Standard Form 118a, Buildings, Structures, Utilities, and Miscellaneous Facilities.

§ 101–47.4902–2 Standard Form 118b, Land.

§ 101–47.4902–3 Standard Form 118c, Related Personal Property.

§ 101–47.4902–4 Instructions for the preparation of Standard Form 118, and Attachments, Standard Forms 118a, 118b, and 118c.

[33 FR 12003, Aug. 23, 1968, as amended at 36 FR 9022, May 18, 1971]

§ 101–47.4904 GSA Form 1334, Request for Transfer of Excess Real and Related Personal Property.

NOTE: The illustrations in § 101-47.4904 are filed as part of the original document and do not appear in the FEDERAL REGISTER.

[42 FR 40698, Aug. 11, 1977]

§ 101–47.4904–1 Instructions for preparation of GSA Form 1334, Request for Transfer of Excess Real and Related Personal Property.

NOTE: The illustrations in § 101-47.4904-1 are filed as part of the original document and do not appear in the FEDERAL REGISTER.

[42 FR 40698, Aug. 11, 1977]

§ 101-47.4905 Extract of statutes authorizing disposal of surplus real property to public agencies.

Statute	Type of property[1]	Eligible public agency
40 U.S.C. 484(k)(1)(A). Disposals for school, classroom, or other educational purposes.	Any surplus real property, including buildings, fixtures, and equipment situated thereon, exclusive of (1) minerals having a commercial value separate and apart from the surface, and (2) property which the holding agency has requested reimbursement of the net proceeds of disposition pursuant to sec. 204(c) of the act.	States and their political subdivisions and instrumentalities, and tax-supported-educational institutions; District of Columbia; Commonwealth of Puerto Rico; and the Virgin Islands.
40 U.S.C. 484(k)(1)(B). Disposals for public health purposes including research.	Any surplus real property, including buildings, fixtures, and equipment situated thereon, exclusive of (1) minerals having a commercial value separate and apart from the surface, and (2) property which the holding agency has requested reimbursement of the net proceeds of disposition pursuant to sec. 204(c) of the act.	States and their political subdivisions and instrumentalities, and tax-supported medical institutions; District of Columbia; Commonwealth of Puerto Rico; and the Virgin Islands.
40 U.S.C. 484(k)(2). Disposals for public park or recreation areas.	Any surplus real property recommended by the Secretary of the Interior as being needed for use as a public park or recreation area, including buildings, fixtures, and equipment situated thereon; exclusive of (1) minerals; (2) improvements without land; (3) military chapels subject to disposal as a shrine, memorial, or for religious purposes under the provisions of sec. 101-47.308-5; and (4) property which the holding agency has requested reimbursement of the net proceeds of disposition pursuant to sec. 204(c) of the act.	Any State, political subdivision and instrumentalities thereof, or municipality; District of Columbia; Commonwealth of Puerto Rico; and the Virgin Islands.
40 U.S.C. 484(k)(3). Disposals for historic monuments.	Any surplus real and related personal property, exclusive of (1) minerals; (2) improvements without land; (3) military chapels subject to disposal as a shrine, memorial, or for religious purposes under the provisions of sec. 101-47.308-5; and (4) property for which the holding agency has requested reimbursement of the net proceeds of disposition pursuant to sec. 204(c) of the act. Before property may be conveyed under this statute, the Secretary of the Interior must determine that the property is suitable and desirable for use as a historic monument for the benefit of the public. No property shall be determined to be suitable or desirable for use as a historic monument except in conformity with the recommendation of the Advisory Board on National Parks, Historic Sites, Buildings, and Monuments established by sec. 3 of the act entitled "An Act for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes," approved Aug. 21, 1935 (49 Stat. 666), and only so much of any such property shall be so determined to be suitable or desirable for such use as is necessary for the preservation and proper observation of its historic features. The Administrator of General Services may authorize the use of the property conveyed under this subsection for revenue-producing activities if the Secretary of the Interior (1) determines that such activities are compatible with use of the property for historic monument purposes, (2) approves the grantee's plan for repair, rehabilitation, restoration, and maintenance of the property, (3) approves grantee's plan for financing repairs, rehabitation, restoration, and maintenance of the property which must provide that incomes in excess of the costs of such items shall be used by the grantee only for public historic preservation, park, or recreational purposes, and (4) approves the grantee's accounting and financial procedures for recording and reporting on revenue-producing activities.	Any State, political subdivision, instrumentalities thereof, or municipality; District of Columbia; Commonwealth of Puerto Rico; and the territories and possessions of the United States.

See footnote at end of table.

Statute	Type of property[1]	Eligible public agency
50 U.S.C. app. 1622(g). Disposals for public airport purposes.	Any surplus real or personal property, exclusive of (1) military chapels subject to disposal as a shrine, memorial or for religious purposes under the provisions of Sec. 101-47.308-5; (2) property subject to disposal as a historic monument site under the provisions of Sec. 101-47.308-3; (3) property the highest and the best use of which is determined by the disposal agency to be industrial and which shall be so classified for disposal, and (4) property which the holding agency has requested reimbursement of the net proceeds of disposition pursuant to sec. 204(c) of the act.	Any State, political subdivision, municipality, or tax-supported institution; Commonwealth of Puerto Rico; and the Virgin Islands.
16 U.S.C. 667b–d. Disposals for wildlife conservation purposes.	Any surplus real property (with or without improvements) that can be utilized for wildlife conservation purposes other than migratory birds, exclusive of (1) oil, gas, and mineral rights, and (2) property which the holding agency has requested reimbursement of the net proceeds of disposition pursuant to sec. 204(c) of the act.	The agency of the State exercising the administration of the wildlife resources of the State.
23 U.S.C. 107 and 317. Disposals for Federal aid and other highways.	Any real property or interests therein determined by the Secretary of Transportation to be reasonably necessary for the right-of-way of a Federal aid or other highway (including control of access thereto from adjoining lands) or as a source of material for the construction or maintenance of any such highway adjacent to such real property or interest therein, exclusive of (1) minerals having a commercial value separate and apart from the surface, and (2) property which the holding agency has requested reimbursement of the net proceeds of disposition pursuant to sec. 204(c) of the act.	State wherein the property is situated (or such political subdivision of the State as its law may provide), including the District of Columbia and Commonwealth of Puerto Rico.
40 U.S.C. 345c. Disposals for authorized widening of public highways, streets, or alleys.	Such interest in surplus real property as the head of the disposal agency determines will not be adverse to the interests of the United States, exclusive of (1) minerals having a commercial value separate and apart from the surface, (2) property subject to disposal for Federal aid and other highways under the provisions of 23 U.S.C. 107 and 317, and (3) property which the holding agency has requested reimbursement of the net proceeds of disposition pursuant to sec. 204(c) of the act.	State or political subdivision of a State.
50 U.S.C. app. 1622(d). Disposals of power transmission lines needful for or adaptable to the requirements of a public power project.	Any surplus power transmission line and the right-of-way acquired for its construction.	Any State or political subdivision thereof or any State agency or instrumentality.
40 U.S.C. 484(c)(3)(H). Disposals by negotiations.	Any surplus real property including related personal property.	Any State, political subdivision thereof, or tax-supported agency therein; Commonwealth of Puerto Rico; and the Virgin Islands.
40 U.S.C. 122. Transfer to the District of Columbia of jurisdiction over properties within the District for administration and maintenance under conditions to be agreed upon.	Any surplus real property, except property which the holding agency has requested reimbursement of the net proceeds of disposition pursuant to sec. 204(c) of the act.	District of Columbia.

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[1] The Commissioner, Public Buildings Service, General Services Administration, Washington, D.C. 20405, in appropriate instances, may waive any exclusion listed in this column, except for those required by law.

[40 FR 22258, May 22, 1975]

§ 101-47.4906 Sample notice to public agencies of surplus determination.

NOTICE OF SURPLUS DETERMINATION—GOVERNMENT PROPERTY

____

(Date)

____

(Name of property)

____

(Location)

Notice is hereby given that the _______________ (Name of property), _____ (Location), has been determined to be surplus Government property. The property consists of 1,333.65 acres of fee land and a 5.968-acre drainage ditch easement, together with installed landing strips, taxiways, walks, roads, parking area, electrical system, and fencing.

This property is surplus property available for disposal pursuant to the provisions of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 et seq.) and applicable regulations. The applicable regulations provide that public agencies (non-Federal) shall be allowed a reasonable period of time to submit a formal application for surplus real property in which they may be interested. Disposal of this property or portions thereof may be made to public agencies for the public uses stated below whenever the Government determines that the property is available for such uses and that disposal thereof is authorized by the statutes cited and applicable regulations:[1]

Statute	Type of disposal
23 U.S.C. 107 and 317	Federal aid and certain other highways.
40 U.S.C. 484(e)(3)(H)	Negotiated sales to public bodies for use for public purposes generally.[2]
40 U.S.C. 484(k)(1)(A)	School, classroom, or other educational purposes.
40 U.S.C. 484(k)(1)(B)	Protection of public health, including research.
40 U.S.C. 484(k)(2)	Public park or recreation area.
40 U.S.C. 484(k)(3)	Historic monument.
50 U.S.C. app. 1622(g)	Public airport.

[2] List only for properties having an estimated fair market value of $10,000 or more.

If any public agency desires to acquire the property under cited statutes, notice thereof in writing must be filed with ———————— (Name of disposal agency), ———— (Address), before ———— (Hour), Local Time, ———— (Day), ———— (Date).[3] Such notice shall:

1. Disclose the contemplated use of the property;
2. Contain a citation of the applicable statute or statutes under which the public agency desires to procure the property;
3. Disclose the nature of the interest if an interest less than fee title to the property is contemplated;
4. State the length of time required to develop and submit a formal application for the property (where a payment to the Government is required under the statute, include a statement as to whether funds are available and, if not, the period required to obtain funds); and
5. Give the reason for the time required to develop and submit a formal application.

Any planning for an educational or public health use of property sought to be acquired subject to a public benefit allowance must be coordinated with the Department of Health, Education, and Welfare ———————— (Address of proper regional office). An application form to acquire property for an educational or public health requirement, and instructions for the preparation and submission of an application, may be obtained from that office.[4]

Any planning for a public park or recreation area of property sought to be acquired subject to a public benefit allowance must be coordinated with the Department of the Interior ———————————— (Address of proper regional office). An application form to acquire property for a public park or recreation area requirement, and instructions for the preparation and submission of an application, may be obtained from that office.[5]

Application forms or instructions to acquire property for all other public use requirements may be obtained from ———————————— (Name of disposal agency), ———————————— (Address).

Upon receipt of such written notice, the public agency shall be promptly informed concerning the period of time that will be allowed for submission of a formal application.

In the absence of such written notice, or in the event a public use proposal is not approved, the regulations issued pursuant to authority contained in the Federal Property and Administrative Services Act of 1949, provide for offering the property for sale for its highest and best use.

If any public agency considers that the proposed disposal of the property is incompatible with its development plans and programs, notice of such incompatibility must be forwarded to ———————— (Name of disposal agency), ———————— (Address), within the same time frame prescribed above.

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[1] List only the statutes (showing type of disposal) applicable to disposal to public bodies of the property determined to be surplus.

[3] This date shall be 20 calendar days after the date of the notice.

[4] Delete this paragraph whenever property is not available for transfer for an educational or public health use.

[5] Delete this paragraph whenever property is not available for transfer for a public park or recreation area.

[36 FR 9778, May 28, 1971, as amended at 40 FR 22259, May 22, 1975]

§ 101-47.4906a Attachment to notice sent to zoning authority.

FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949, AS AMENDED

TITLE VIII—URBAN LAND UTILIZATION
DISPOSAL OF URBAN LANDS

SEC. 803

(a) Whenever the Administrator contemplates the disposal for or on behalf of any Federal agency of any real property situated within an urban area, he shall, prior to offering such land for sale, give reasonable notice to the head of the governing body of the unit of general local govenrment having jurisdiction over zoning and land-use regulation in the geographical area within which the land or lands are located in order to afford the government the opportunity of zoning for the use of such land in accordance with local comprehensive planning.

(b) The Administrator, to the greatest practicable extent, shall furnish to all prospective purchasers of such real property, full and complete information concerning:

(1) Current zoning regulations and prospective zoning requirements and objectives for such property when it is unzoned: and

(2) Current availability to such property of streets, sidewalks, sewers, water, street lights, and other service facilities and prospective availability of such services if such property is included in comprehensive planning.

[34 FR 11210, July 3, 1969]

§ 101-47.4906b Paragraph to be added to letter sent to zoning authority.

As the head of the governing body of the unit of general local government having jurisdiction over zoning and land-use regulations in the geographical area within which this surplus property is located, you also may be interested in section 803 of the Federal Property and Administrative Services Act of 1949, as amended, 82 Stat. 1105, a copy of which is attached for ready reference. It is requested that the information contemplated by section 803(b) be forwarded this office within the same 20-calendar-day period prescribed in the attached notice of surplus determination for the advising of a desire to acquire the property. If the property is unzoned and you desire the opportunity to accomplish such zoning in accordance with local comprehensive planning pursuant to section 803(a), please so advise us in writing within the same time frame and let us know the time you will require for the promulgation of such zoning regulations. We will not delay sale of the property pending such zoning for more than 50 days from the date of this notice. However, if you will not be able to accomplish the desired zoning before the property is placed on sale, we will advise prospective purchasers of the pending zoning in process.

[34 FR 11210, July 3, 1969]

§ 101-47.4906-1 Sample letter for transmission of notice of surplus determination.

————————————
(Date)

CERTIFIED MAIL—RETURN RECEIPT REQUESTED

————————————
————————————
————————————
(Addressee)

Dear ————————————:

The former ———————————(Name of property), ———————————(Location) has been determined to be surplus Government property and available for disposal.

Included in the attached notice are a description of the property and procedural instructions to be followed if any public agency desires to submit an application for the property. Please note particularly the name and address given for filing written notice if any public agency desires to submit such an application, the time limitation within which written notice must be filed, and the required content of such notice. Additional instructions are provided for the submission of comments regarding any incompatibility of the disposal with any public agency's development plans and programs.

In order to ensure that all interested parties are informed of the availability of this property, please post the additional copies of the attached notice in appropriate conspicuous places.[1]

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[1] Attach as many copies of the notice as may be anticipated will be required for adequate posting.

A notice of surplus determination also is being mailed to ——————— (Other addressees).

Sincerely,

Attachment

[34 FR 11211, July 3, 1969, as amended at 35 FR 8487, June 2, 1970]

§ 101-47.4907 List of Federal real property holding agencies.

NOTE: The illustrations in § 101-47.4907 are filed as part of the original document and do not appear in the FEDERAL REGISTER.

[40 FR 12080, Mar. 17, 1975]

§ 101-47.4908—101-47.4909 [Reserved]

§ 101-47.4910 Field offices of Department of Health, Education, and Welfare.

NOTE: The illustrations in § 101-47.4910 are filed as part of the original document and do not appear in the FEDERAL REGISTER.

[40 FR 12080, Mar. 17, 1975]

§ 101-47.4911 Outline for explanatory statements for negotiated sales.

NOTE: The illustration listed in section 101-47.4911 is filed as part of the original document and does not appear in the FEDERAL REGISTER.

[42 FR 31455, June 21, 1977]

§ 101-47.4912 Regional offices of the Bureau of Outdoor Recreation, Department of the Interior.

Address communications to: Regional Director, Bureau of Outdoor Recreation, Department of the Interior.

Region and jurisdiction	Address and telephone
Northeast region:	
Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and District of Columbia.	Federal Bldg., 600 Arch St., Philadelphia, Pa. 19106. Code 215, 597-7989
Southeast region:	
Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, and Virgin Islands.	148 Cain St., Atlanta, Ga. 30303. Code 404, 526-4405.
Lake Central region:	
Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.	3853 Research Park Dr., Ann Arbor, Mich. 48104. Code 313, 769-3211
Midcontinent region:	
Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming.	Building 41, Denver Federal Center, P.O. Box 25387, Denver, Colo. 80225. Code 303, 234-2634
South Central region:	
Arkansas, Louisiana, New Mexico, Oklahoma, and Texas....	Patio Plaza Bldg., 5000 Marble Ave., NE., Albuquerque, N. Mex. 87110. Code 505, 843-3514
Northwest region:	
Alaska, Idaho, Oregon, and Washington................................	United Pacific Bldg., 1000 Second Ave., Seattle, Wash. 98104. Code 206, 442-4706
Pacific Southwest region:	
American Samoa, Arizona, California, Guam, Hawaii, and Nevada.	Box 36062, 450 Golden Gate Ave., San Francisco, Calif. 94102. Code 415, 556-0182

[40 FR 22260, May 22, 1975]

§ 101-47.4913 Outline for protection and maintenance of excess and surplus real property.

A. *General.* In protecting and maintaining excess and surplus properties, the adoption of the principle of "calculated risk" is considered to be essential. In taking what is termed a "calculated risk," the expected losses and deteriorations in terms of realizable values are anticipated to be less in the overall than expenditures to minimize the risks. In determining the amount of protection to be supplied under this procedure, a number of factors should be considered; such as, the availability of, and the distance to, local, public, or private protection facilities; the size and value of the facility; general characteristics of structures; physical protection involving fencing, number of gates, etc.; the location and availability of communication facilities; and the amount and type of activity at the facility. Conditions at the various excess and surplus properties are so diverse that it is impracticable to establish a definite or fixed formula for determining the extent of protection and maintenance that should be applied. The standards or criteria set forth in B and C, below, are furnished as a guide in making such determinations.

B. *Protection Standards.* The following standards are furnished as a guide in determining the amount and limits of protection.

1. *Properties not Requiring Protection Personnel.* Fire protection or security personnel are not needed at:

(a) Facilities where there are no structures or related personal property;

(b) Facilities where the realizable or recoverable value of the improvements and related personal property subject to loss is less than the estimated cost of protection for a one-year period;

(c) Facilities of little value located within public fire and police department limits, which can be locked or boarded up;

(d) Facilities where the major buildings are equipped with automatic sprinklers, supervised by American District Telegraph Company or other central station service, which do not contain large quantities of readily removable personal property, and which are in an area patrolled regularly by local police; and

(e) Facilities where agreements can be made with a lessee of a portion of the property to protect the remaining portions at nominal, or without additional cost.

2. *Properties Requiring a Resident Custodian.* A resident custodian or guard only is required at facilities of the following classes:

(a) Facilities containing little removable personal property but having a considerable number of buildings to be sold for off-site use when (a) the buildings are of low realizable value and so spaced that loss of more than a few buildings in a single fire is improbable, or (b) the buildings are so located that water for firefighting purposes is available and municipal or other fire department services will respond promptly;

(b) Small, inactive industrial and commercial facilities which must be kept open for inspection and which are so located that public fire and police protection can be secured by telephone;

(c) Facilities where the highest and best use has been determined to be salvage; and

(d) Facilities of little, or salvage, value but potentially dangerous and attractive to children and curiosity seekers where the posting of signs is not sufficient to protect the public.

3. *Properties Requiring Continuous Guard Service.* One guard on duty at all times (a total of 5 guards required) is required at facilities of high market value which are fenced; require only one open gate which can be locked during patrols; all buildings of which can be locked; and where local police and fire protection can be secured by telephone.

4. *Properties Requiring High Degree of Protection.* More than one firefighter-guard will be required to be on duty at all times at facilities of the classes listed below. The number, and the assignment, of firefighter-guards in such cases should be determined by taking into consideration all pertinent factors.

(a) Facilities of high market value which are distant from public assistance and require an on-the-site firefighting force adequate to hold fires in check until outside assistance can be obtained.

(b) Facilities of high market value which can obtain no outside assistance and require an on-the-site firefighting force adequate to extinguish fires.

(c) Facilities of high market value at which the patrolling of large areas is necessary.

(d) Facilities of high market value not fenced and containing large quantities of personal property of a nature inviting pilferage.

(e) Facilities of high market value at which several gates must be kept open for operating purposes.

5. *Standards for All Protected Properties.*

(a) All facilities within the range of municipal or other public protection, but outside the geographic limits of such public body, should be covered by advance arrangements with appropriate authorities for police and fire protection service, at a monthly or other service fee if necessary.

(b) Patrolling of all facilities with large areas to be protected should be accomplished by use of automotive vehicles.

(c) At fenced facilities, a minimum number of gates should be kept open.

6. *Firefighter-Guards.* Firefighters and guards are the normal means for carrying out the fire protection and security programs at excess and surplus real properties where both such programs are required. The duties of firefighters and guards should be combined to the maximum extent possible in the interest of both economy and efficiency. Such personnel would also be available in many cases for other miscellaneous services, such as, removing grass and weeds or other fire hazards, servicing fire extinguishers, and other activities related to general protection of property.

7. *Operating Requirements of Protection Units.* Firefighter-guards or guards, should be required to make periodic rounds of facilities requiring protection. The frequency of these rounds would be based upon a number of factors; such as, location and size of the facility, type of structures and physical barriers, and the amount and type of activity at the facility. There may be instances where some form of central station supervision, such as American District Telegraph Company, will effect reduction in costs by reducing the number of firefighter-guards, or guards, required to adequately protect the premises.

8. *Watchman's Clock.* To insure adequate coverage of the entire property by the guards, or firefighter-guards, an approved watchman's clock should be provided, with key stations strategically located so that, in passing from one to the other, the guards will cover all portions of the property.

9. *Protection Alarm Equipment.* Automatic fire detection devices and allied equipment and services may materially assist in minimizing protection costs. However, use of devices of this type, like guards, are purely secondary fire protection and are primarily a means of obtaining fire and police protection facilities at the property in an emergency. There are various types of devices, each of which can be considered separately or in combination as supplementing guard patrols, which may assist in reduction of costs and, in some instances, it may be possible to eliminate all guards.

10. *Sentry Dogs.* Frequently there are facilities of high market value, or which cover large areas, or are so isolated that they invite intrusion by curiosity seekers, hunters, vagrants, etc., which require extra or special protection measures. This has usually been taken care of by staffing with additional guards so that the "buddy system" of patrolling may be used. In such cases, the use of sentry dogs should be considered in arriving at the appropriate method of offsetting the need for additional guards, as well as possible reductions in personnel. If it is determined to be in the Government's interest to use this type of protection, advice should be obtained as to acquisition (lease, purchase, or donation), training, use, and care, from the nearest police department using sentry dogs. When sentry dogs are used, the property should be clearly posted "Warning—This Government Property Patrolled by Sentry Dogs."

C. *Maintenance Standards.* The following standards or criteria are furnished as a guide in connection with the upkeep of excess and surplus real properties:

1. *Temporary Type Buildings and Structures.* Temporary buildings housing personal property which cannot be readily removed to permanent type storage should be maintained only to the extent necessary to protect the personal property. Vacant temporary structures should not be maintained except in unusual circumstances.

2. *Permanent Type Buildings and Structures.*

(a) No interior painting should be done. Where exterior wood or metal surfaces require treatment to prevent serious deterioration, spot painting only should be done when practicable.

(b) Carpentry and glazing should be limited to: work necessary to close openings against weather and pilferage; making necessary repairs to floors, roofs, and sidewalls as a protection against further damage; shoring and bracing of structures to preclude structural failures; and similar operations.

(c) Any necessary roofing and sheet metal repairs should, as a rule, be on a patch basis.

(d) Masonry repairs, including brick, tile, and concrete construction, should be undertaken only to prevent leakage or disintegration, or to protect against imminent structural failure.

(e) No buildings should be heated for maintenance purposes except in unusual circumstances.

3. *Mechanical and Electrical Installations.* These include plumbing, heating, ventilating, air conditioning, sprinkler systems, fire alarm systems, electrical equipment, elevators, and similar items.

(a) At facilities in inactive status, maintenance of mechanical and electrical installations should be limited to that which is necessary to prevent or arrest serious deterioration. In most cases, personnel should not be employed for this work except on a temporary basis at periodic intervals when it is determined by inspections that the work is necessary. Wherever possible electrical systems should be deenergized, water drained from all fixtures, heat turned off, and buildings secured against unauthorized entry. Sprinkler systems should be drained during freezing weather and reactivated when danger of freezing has passed.

(b) At facilities in active status, such as multiple-tenancy operations, equipment should be kept in reasonable operating condition. Operation of equipment to furnish services to private tenants, as well as the procurement of utility services for distribution to tenants, should be carried on only to the extent necessary to comply with lease or permit conditions, or in cases where it is impracticable for tenants to obtain such services directly from utility companies or other sources.

(c) At facilities where elevators and/or high-pressure boilers and related equipment are in operation, arrangements should be made for periodic inspections by qualified and licensed inspectors to insure that injury to personnel, loss of life, or damage to property does not occur.

(d) Individual heaters should be used, when practicable, in lieu of operating heating plants.

4. *Grounds, Roads, Railroads, and Fencing.*

(a) Maintenance of grounds should be confined largely to removal of vegetation where necessary to avoid fire hazards and to control poisonous and noxious plant growth in accordance with local and State laws and regulations; plowing of fire lanes where needed; and removal of snow from roads and other areas only to the extent necessary to provide access for maintenance, fire protection, and similar activities. Wherever practicable, hay crops should be sold to the highest bidders with the purchaser performing all labor in connection with cutting and removal. Also, agricultural and/or grazing leases may be resorted to, if practicable, as other means of reducing the cost of grounds maintenance. Any such leases shall be subject to the provisions of § 101-47.203-9 or § 101-47.312.

(b) Only that portion of the road network necessary for firetruck and other minimum traffic should be maintained. The degree to which such roads are to be maintained should be only that necessary to permit safe passage at a reasonable speed.

(c) Railroads should not be maintained except as might be required for protection and maintenance operations, or as required under the provisions of a lease or permit.

(d) Ditches and other drainage facilities should be kept sufficiently clear to permit surface water to run off.

(e) Fencing, or other physical barrier, should be kept in repair sufficiently to afford protection against unauthorized entry.

5. *Utilities.*

(a) At inactive properties, water systems, sewage disposal systems, electrical distribution systems, etc., should be maintained only to the extent necessary to provide the minimum services required. Buildings or areas not requiring electrical service or water should be deenergized electrically and the water valved off. Utilities not in use, or which are serving dismantled or abandoned structures, should not be maintained.

(b) At active properties, water supply, electrical power, and sewage disposal facilities frequently must be operated at rates much below designed capacities. Engineering studies should determine the structural and operating changes necessary for maximum economy. Where leakage is found in water distribution lines, such lines may be valved off rather than repaired, unless necessary for fire protection or other purposes.

(c) Where utilities are purchased by contract, such contracts should be reviewed to determine if costs can be reduced by revision of the contracts.

6. *Properties to be Disposed of as Salvage.* No funds should be expended for maintenance on properties where the highest and best use has been determined to be salvage.

D. *Repairs.* Repairs should be limited to those additions or changes that are necessary for the preservation and maintenance of the property to deter or prevent excessive, rapid, or dangerous deterioration or obsolescence and to restore property damaged by storm, flood, fire, accident, or earthquake only where it has been determined that restoration is required.

E. *Improvements.* No costs should be incurred to increase the sales value of a property, and no costs should be incurred to make a property disposable without the prior approval of GSA. (See § 101-47.401-5.)

[29 FR 16126, Dec. 3, 1964, as amended at 30 FR 11281, Aug. 2, 1965]

§ 101-47.4914 Executive Order 11724.

NOTE: The illustrations in § 101-47.4914 are filed as part of the original document.

[40 FR 12080, Mar. 17, 1975]

PART 101-48—UTILIZATION, DONATION, OR DISPOSAL OF ABANDONED AND FORFEITED PERSONAL PROPERTY

Sec.

101-48.000 Scope of part.
101-48.001 Definitions.
101-48.001-1 Abandoned or other unclaimed property.
101-48.001-2 Distilled spirits.
101-48.001-3 Eleemosynary institution.
101-48.001-4 Firearms.
101-48.001-5 Forfeited property.
101-48.001-6 Malt beverages.
101-48.001-7 Property.
101-48.001-8 Voluntarily abandoned property.
101-48.001-9 Wine.

Subpart 101-48.1—Utilization of Abandoned and Forfeited Personal Property

101-48.100 Scope of subpart.
101-48.101 Forfeited or voluntarily abandoned property.
101-48.101-1 Sources of property available for utilization.
101-48.101-2 Custody of property.
101-48.101-3 Cost of care and handling.
101-48.101-4 Retention by holding agency.
101-48.101-5 Property required to be reported.
101-48.101-6 Transfer to other Federal agencies.
101-48.101-7 Reimbursement and costs incident to transfer.
101-48.101-8 Billing.
101-48.101-9 Disposition of proceeds.
101-48.102 Abandoned or other unclaimed property.
101-48.102-1 Vesting of title in the United States.
101-48.102-2 Reporting.
101-48.102-3 Reimbursement.
101-48.102-4 Proceeds.

Subpart 101-48.2—Donation of Abandoned and Forfeited Personal Property

101-48.200 Scope of subpart.

Sec.
101-48.201 Donation of forfeited distilled spirits, wine, and malt beverages.
101-48.201-1 General.
101-48.201-2 Establishment of eligibility.
101-48.201-3 Requests by institutions.
101-48.201-4 Filling requests.
101-48.201-5 Donation of lots not required to be reported.
101-48.201-6 Packing and shipping costs.

Subpart 101-48.3—Disposal of Abandoned and Forfeited Personal Property

101-48.300 Scope of subpart.
101-48.301 General.
101-48.302 Distilled spirits, wine, and malt beverages.
101-48.303 Firearms.
101-48.304 Property other than distilled spirits, wine, and malt beverages and firearms.
101-48.305 Disposition of proceeds from sale.
101-48.305-1 Abandoned or other unclaimed property.
101-48.305-2 Forfeited or voluntarily abandoned property.

Subparts 101-48.4—101-48.48 [Reserved]

Subpart 101-48.49—Illustrations of Forms

101-48.4900 Scope of subpart.
101-48.4901 [Reserved]
101-48.4902 GSA forms.
101-48.4902-18 GSA Form 18, Application of Eleemosynary Institution.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

SOURCE: 42 FR 55813, Oct. 19, 1977, unless otherwise noted.

§ 101-48.000 Scope of part.

This part prescribes the policies and methods governing the utilization, donation, and disposal of abandoned and forfeited personal property under the custody or control of any Federal agency in the United States, the Commonwealth of Puerto Rico, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands.

§ 101-48.001 Definitions.

For the purposes of this Part 101-48, the following terms shall have the meanings set forth in this section.

§ 101-48.001-1 Abandoned or other unclaimed property.

"Abandoned or other unclaimed property" means personal property that is found on premises owned or leased by the Government and which is subject to the filing of a claim therefor by the former owner(s) within 3 years from the vesting of title in the United States.

§ 101-48.001-2 Distilled spirits.

"Distilled spirits," as defined in the Federal Alcohol Administration Act (27 U.S.C. 211), as now in force or hereafter amended, means ethyl alcohol; hydrated oxide of ethyl; or spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof.

§ 101-48.001-3 Eleemosynary institution.

"Eleemosynary institution" means a nonprofit institution organized and operated for charitable purposes whose net income does not inure in whole or in part to the benefit of shareholders or individuals and which shall have filed with the Regional Administrator, GSA Region 3, a satisfactory statement establishing such status.

§ 101-48.001-4 Firearms.

"Firearms," as defined in 18 U.S.C. 921, as now in force or hereafter amended, means any weapon (including a starter gun) which will, or is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon or any firearm muffler or firearm silencer; or any destructive device. This term does not include an antique firearm.

§ 101-48.001-5 Forfeited property.

"Forfeited property" means personal property acquired by a Federal agency either by summary process or by order of a court of competent jurisdiction pursuant to any law of the United States.

§ 101-48.001-6 Malt beverages.

"Malt beverages," as defined in the Federal Alcohol Administration Act (27 U.S.C. 211), as now in force or hereafter amended, means beverages made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, of malted barley with hops or their parts or products and with or without other malted cereals; and with or without the addition of unmalted or prepared cereals, other carbohydrates, or products prepared therefrom; and with or without the addition of carbon dioxide; and with or without other wholesome products suitable for human food consumption.

§ 101-48.001-7 Property.

"Property" means all personal property, including but not limited to vessels, vehicles, aircraft, distilled spirits, wine, and malt beverages.

§ 101-48.001-8 Voluntarily abandoned property.

"Voluntarily abandoned property" means personal property abandoned to a Federal agency in such a manner as to vest title thereto in the United States.

§ 101-48.001-9 Wine.

"Wine" means any of the wines defined in sections 5381 and 5385 of the Internal Revenue Code of 1954 (26 U.S.C. 5381, 5385), as now in force or hereafter amended, and other alcoholic beverages not so defined, but made in the manner of wine, including sparkling and carbonated wine; wine made from condensed grape must; wine made from agricultural products other than the juice of sound, ripe grapes; imitation wine; compounds sold as wine; vermouth; cider; perry; and sake. The alcoholic content of these beverages shall not contain less than 7 percent nor more than 24 percent of alcohol by volume and shall not be for industrial use.

Subpart 101-48.1—Utilization of Abandoned and Forfeited Personal Property

§ 101-48.100 Scope of subpart.

This subpart 101-48.1 prescribes the policies and methods for utilization and transfer within the Government of forfeited or voluntarily abandoned personal property subject to the provisons of 40 U.S.C. 304 f through m, and abandoned and other unclaimed property found on premises owned or leased by the Government subject to the provisions of 40 U.S.C. 484(m), which may come into the custody or control of any Federal agency in the United States, the Commonwealth of Puerto Rico, American Samoa, Guam, the Trust Territory of the Pacific Islands, or the Virgin Islands. Property in this category located elsewhere shall be utilized and transferred in accordance with the regulations of the agency having custody thereof.

§ 101-48.101 Forfeited or voluntarily abandoned property.

Forfeited or voluntarily abandoned property, subject to the provisions of 40 U.S.C. 304(f) through m, except as otherwise indicated in this Subpart 101-48.1, shall be reported and handled in the same manner as excess property under Subpart 101-43.3.

§ 101-48.101-1 Sources of property available for utilization.

Property available for utilization under § 101-48.101 is property which is in the custody or under the control of any agency of the U.S. Government, as a result of forfeiture or voluntary abandonment.

§ 101-48.101-2 Custody of property.

(a) GSA generally will not take possession of property that is forfeited or voluntarily abandoned. Such property shall remain in the custody of and be the responsibility of the holding agency.

(b) GSA will direct the disposition of forfeited firearms that are subject to the disposal provisions of 26 U.S.C. 5872(b). GSA authorizes the retention of any such firearm by the Secretary of the Treasury or his delegate for official use.

(c) GSA will direct the disposition of distilled spirits, wine, and malt beverages that are forfeited other than by court decree or by order of a court:

(1) By transfer to Government agencies which have a need for such beverages for medicinal, scientific, or mechanical purposes, or for any other

purpose for which appropriated funds may be expended by a Government agency;

(2) By donation to eleemosynary institutions (as defined in § 101-48.001-3) which have a need for such beverages for medicinal purposes; or

(3) By destruction.

§ 101-48.101-3 Cost of care and handling.

Each holding agency shall be responsible for performing care and handling of forfeited or voluntarily abandoned personal property pending disposition.

§ 101-48.101-4 Retention by holding agency.

(a) Subject to the limitations on certain types of passenger vehicles (see § 101-43.302(e)), a Federal agency may retain and devote to official use any property in its custody that is (1) forfeited other than by court decree or (2) determined by the agency to be voluntarily abandoned. Large sedans and limousines may be retained by an agency and devoted to official use only if such retention is clearly authorized by the provisions of Subpart 101-38.13.

(b) A holding agency, when reporting property pursuant to § 101-48.101-5, which is subject to pending court proceedings for forfeiture, may at the same time file a request for that property for its official use. A request for only components or accessories of a complete and operable item shall contain a detailed justification concerning the need for the components or accessories and an explanation of the effect their removal will have on the item. Upon receipt of a request, GSA will make application to the court requesting delivery of the property to the holding agency, provided that, when a holding agency has requested only components or accessories of a complete and operable item, GSA determines that their removal from the item is in the best interest of the Government.

(c) Any property that is retained by a Federal agency for official use under this Subpart 101-48.1 shall thereupon lose its identity as forfeited or voluntary abandoned property. When such property is no longer required for official use, it shall be reported as excess in accordance with § 101-43.311.

(Sec. 307, 49 Stat. 880; 40 U.S.C. 3041).

[42 FR 55813, Oct. 19, 1977, as amended at 44 FR 42202, July 19, 1979]

§ 101-48.101-5 Property required to be reported.

(a) A Federal agency shall promptly report, in accordance with §§ 101-43.311 through 101-43.313, property in its custody that is forfeited other than by court decree or voluntarily abandoned and not desired for retention by that agency for its official use and property on which proceedings for forfeiture by court decree are being started or have begun, except that:

(1) Reports shall be submitted to the Regional Administrator, GSA Region 3 (mailing address: General Services Administration (3A), Washington, DC 20407), in lieu of being submitted to the GSA regional office for the region in which the property is located.

(2) The reporting agency's internal documents containing information relevant to the property may be used in lieu of the Standard Form 120, Report of Excess Personal Property; and

(3) Distilled spirits, wine and malt beverages fit for human consumption in quantities of 5 wine gallons or more shall be reported regardless of acquisition cost.

(b) The following information shall be furnished:

(1) Whether property was:

(i) Abandoned;

(ii) Forfeited other than by court decree; or

(iii) The subject of a court proceeding and, if so, the name of the defendant and the place and judicial district of the court from which the decree has been or will be issued;

(2) Existence or probability of a lien or claim of lien, or other accrued or accruing charges, and the amount involved; and

(3) If the property is distilled spirits, wine, or malt beverages: Quantities and kinds (rye or bourbon or other whiskey and its brand, if any; sparkling or still wine and its color or brand; cordial, brandy, gin, etc.), proof rating, and condition for shipping.

(c) In addition to the exceptions and special handling described in §§ 101-43.312 and 101-43.313, the following forfeited or voluntarily abandoned property need not be reported:

(1) Forfeited arms or munitions of war which are handled pursuant to 22 U.S.C. 401;

(2) Forfeited firearms which are transferable by the holding agency to the Secretary of Defense;

(3) Abandoned, condemned, or forfeited tobacco, snuff, cigars, or cigarettes which the holding agency estimates will not, if offered for sale by competitive bid, bring a price equal to the internal revenue tax due and payable thereon; and which is subject to destruction or delivery without payment of any tax to any hospital maintained by the United States for the use of present or former members of the military or naval forces of the United States;

(4) Forfeited distilled spirits (including alcohol), wine and malt beverages not fit for human consumption nor for medicinal, scientific, or mechanical purposes. (Domestic forfeited distilled spirits, wine, and malt beverages which were not produced at a registered distillery, winery, or brewery or which are in containers that have been opened or entered shall be regarded as not fit for human consumption. (See § 101-48.302 for disposition.));

(5) Distilled spirits, wine, and malt beverages in any one seizure of less than 5 wine gallons (see §§ 101-48.201-5 and 101-48.302 for disposition);

(6) Effects of deserters from the Coast Guard or the military services, or of deceased persons of the Coast Guard or the military services, or of deceased inmates of naval or soldiers' homes or Government hospitals;

(7) Seeds, plants, or misbranded packages seized by the Department of Agriculture pursuant to authorities provided by law;

(8) Game and equipment (other than vessels, including cargo) seized by the Department of the Interior pursuant to authorities provided by law;

(9) Files of papers, all dead and undeliverable mail matter, and nonmailable matter in the custody of the Postmaster General;

(10) Infringing articles in the custody of the Patent Office, Department of Commerce;

(11) Unclaimed and abandoned personal property subject to applicable customs laws and regulations;

(12) Collection seizures to satisfy tax liens and property acquired by the United States in payment of or as security for debts arising under the internal revenue laws;

(13) Property, the vesting and disposition of which is controlled by the provisions of 38 U.S.C. 5201 (et seq.), Disposition of deceased veterans' personal property; and

(14) Motor vehicles which are 4 or more years old.

(d) The general rule for reporting specified in this § 101-48.101-5 is modified with respect to the following:

(1) Controlled substances (as defined in § 101-43.001-4), regardless of quantity, condition, or acquisition cost, shall be reported to the Drug Enforcement Administration, Department of Justice, Washington, D.C. 20537;

(2) Forfeited firearms not desired for retention by the seizing agency, except those covered by paragraphs (c)(1) and (2) of this section, shall be reported provided such firearms are in excellent serviceable condition and known to be used for law enforcement or security purposes or are sufficiently unusual to be of interest to a Federal museum. Forfeited firearms not reportable in accordance with the foregoing criteria shall be destroyed and disposed of pursuant to § 101-48.303;

(3) Property forfeited other than by court decree which is suitable for human consumption or which may be used in the preparation of food may be immediately transferred by the agency having custody to the nearest Federal agency known to be a user of such property, without specific authorization from GSA;

(4) Vessels of 1,500 gross tons or more which the Maritime Administration determines to be merchant vessels or capable of conversion to merchant use shall be reported to the Maritime Administration;

(5) Property seized by one Federal agency but adopted by another for prosecution under laws enforced by the adopting Federal agency shall be

reported by the adopting agency to the extent and in the manner required by this Subpart 101-48.1; and

(6) Lost, abandoned, or unclaimed personal property controlled by the provisions of 10 U.S.C. 2575 shall be disposed of as provided by 10 U.S.C. 2575 and regulations issued thereunder by appropriate authority.

(e) Property not required to be reported pursuant to this § 101-48.101-5 and not excepted or modified with respect to reporting pursuant to this § 101-48.101-5 shall be handled as set forth in § 101-43.306.

§ 101-48.101-6 Transfer to other Federal agencies.

(a) Normally, the transfer of forfeited or voluntarily abandoned personal property shall be accomplished by submitting for approval a Standard Form 122, Transfer Order-Excess Personal Property (see § 101-43.4901-122), or any other transfer order form approved by GSA, to the Regional Administrator, GSA Region 3 (mailing address: General Services Administration (3A), Washington, D.C. 20407), for approval.

(b) Except for property which is subject to court action, the transfer order shall indicate the agency having custody of the property, the location of the property, the report or case number on which the property is listed, the property required, and the fair value, if applicable.

(c) Property subject to court action may be requested by submitting a transfer order or a letter setting forth the need for the property by the agency. If proceedings for the forfeiture of the property by court decree are being started or have begun, application will be made by GSA to the court, prior to entry of a decree, for an order requiring delivery of the property to an appropriate recipient for its official use.

(d) Transfers of forfeited or voluntarily abandoned distilled spirits, wine, and malt beverages shall be limited to those for medicinal, scientific, or mechanical purposes or for any other official purposes for which appropriated funds may be expended by a Government agency. Transfer orders shall be signed by the head of the requesting agency or his designee. Where officials are designated to sign, the Regional Administrator, GSA Region 3 (mailing address: General Services Administration (3A), Washington, D.C. 20407), shall be advised of designees by letter signed by the head of the agency concerned. No transfer order will be acted upon unless it is signed as provided herein.

(e) Transfer orders requesting the transfer of forfeited or voluntarily abandoned firearms shall set forth the need for the property by the requesting agency.

(f) Any property transferred for official use under this Subpart 101-48.1 shall thereupon lose its identity as forfeited or voluntarily abandoned property. When no longer required for official use, it shall be reported as exess in accordance with § 101-43.311.

§ 101-48.101-7 Reimbursement and costs incident to transfer.

(a) Reimbursement upon transfer of personal property forfeited or voluntarily abandoned other than by court decree shall be in accordance with § 101-43.315-3.

(b) Reimbursement for judicially forfeited property shall be in accordance with provisions of the court decree.

(c) Commercial charges incurred at the time of and subsequent to forfeiture or voluntary abandonment but prior to transfer shall be borne by the transferee agency when billed by the commercial organization.

(d) The direct costs incurred by the holding agency prior to the transfer of forfeited or voluntarly abandoned property shall be borne by the transferee agency when billed by the holding agency. Overhead or administrative costs or charges shall not be included. Only costs set forth in 40 U.S.C. 304j, such as storage, packing, preparation for shipment, loading, and transportation shall be recovered by the holding agency.

§ 101-48.101-8 Billing.

(a) Each holding agency shall be responsible for billing and collecting the costs of care and handling, as well as the fair value of property transferred to other agencies, when such reimbursement is required in accordance with § 101-43.315-3.

(b) Commercial organizations accruing charges prior to transfer shall be responsible for billing and collecting these charges from the transferee agency.

§ 101-48.101-9 Disposition of proceeds.

Where reimbursement for fair value is to be made in accordance with § 101-43.315-3, the fair value proceeds shall be deposited in the Treasury to miscellaneous receipts or in the appropriate agency account by the transferor agency.

§ 101-48.102 Abandoned or other unclaimed property.

§ 101-48.102-1 Vesting of title in the United States.

Abandoned or other unclaimed property, subject to the provisions of section 203(m) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484(m)), shall remain in the custody of and be the responsibility of the agency finding such property. The property shall be held for a period of 30 days from the date of finding such property. Upon expiration of this 30-day period, title to such property vests in the United States, except that title reverts to the owner where a proper claim is filed by the owner prior to official use or transfer for official use and, if there is no official use or transfer for official use, prior to sale of the property.

§ 101-48.102-2 Reporting.

(a) Abandoned or other unclaimed property not utilized by the holding agency shall be reported and handled in the same manner as excess property under Subpart 101-43.3, except as provided in § 101-48.102-2(b).

(b) Abandoned or other unclaimed property which, by the provisions of § 101-43.311, is not required to be reported and which is not otherwise transferred pursuant to Subpart 101-43.3, shall be subject to the provisions of Subpart 101-48.3.

§ 101-48.102-3 Reimbursement.

Reimbursement of fair market value, as determined by the head of the finding or transferor agency, shall be required in connection with official use by the finding agency or transfer for official use of abandoned or other unclaimed property. Fair market value as used herein does not mean fair value as determined under § 101-43.315-3.

§ 101-48.102-4 Proceeds.

Reimbursement for official use by the finding agency or transfer for official use of abandoned or other unclaimed property shall be deposited in a special fund by the finding or transferor agency for a period of at least 3 years. A former owner may be reimbursed from the special fund, based upon a proper claim made to the finding or transferor agency and filed within 3 years from the date of vesting of title in the United States. Such reimbursement shall not exceed fair market value at the time title was vested in the United States, less the costs incident to the care and handling of such property as determined by the head of the agency concerned.

Subpart 101-48.2—Donation of Abandoned and Forfeited Personal Property

§ 101-48.200 Scope of subpart.

This Subpart 101-48.2 prescribes the policies and methods governing the donation by Federal agencies of abandoned and forfeited property in their custody or control in the United States, the Commonwealth of Puerto Rico, American Samoa, Guam, the Trust Territory of the Pacific Islands, or the Virgin Islands.

§ 101-48.201 Donation of forfeited distilled spirits, wine, and malt beverages.

§ 101-48.201-1 General.

Forfeited distilled spirits, wine, and malt beverages for which there is no Federal utilization shall be made available to appropriate eleemosynary institutions prior to other disposition.

§ 101-48.201-2 Establishment of eligibility.

Eleemosynary institutions desiring to obtain available distilled spirits, wine, and malt beverages shall submit GSA Form 18, Application of Eleemosynary Institution (see § 101-48.4902-18), to the General Services Administration (3FW), Washington, D.C. 20407. The Office of Management and Budget Approval Number 29-R0012 has been assigned to this form.

§ 101-48.201-3 Requests by institutions.

Eligible institutions desiring to obtain available distilled spirits, wine, and malt beverages shall show on the GSA Form 18, Application of Eleemosynary Institution, the kind and quantity desired. The Federal Supply Service, GSA Region 3, will inform the eligible institution when such alcoholic beverages become available, request confirmation that the institution's requirement is current, and inform the institution that shipment will be initiated upon such confirmation.

§ 101-48.201-4 Filling requests.

The GSA Regional Administrator, Region 3, will authorize the seizing agency to fill such requests as he may determine proper to ensure equitable distribution among requesting institutions.

§ 101-48.201-5 Donation of lots not required to be reported.

Forfeited distilled spirits, wine, and malt beverages not required to be reported under § 101-48.101-5 may be donated to eleemosynary institutions know to be eligible therefor if the beverages are determined by the seizing agency to be suitable for human consumption. The holding agency shall promptly report such donations by letter to the General Services Administration (3FW), Washington, DC 20407. This report shall state the quantity and type so donated, the name and address of the donee institution, and the date of the donation.

§ 101-48.201-6 Packing and shipping costs.

The receiving institution shall pay all costs of packing, shipping, and transportation.

Subpart 101-48.3—Disposal of Abandoned and Forfeited Personal Property

§ 101-48.300 Scope of subpart.

This Subpart 101-48.3 prescribes the policies and methods governing the disposal of abandoned or other unclaimed, voluntarily abandoned, or forfeited personal property which may come into the custody or control of any Federal agency in the United States, the Commonwealth of Puerto Rico, American Samoa, Guam, the Trust Territory of the Pacific Islands, or the Virgin Islands. Property in this category located elsewhere shall be disposed of under the regulations of the agency having custody thereof.

§ 101-48.301 General.

Any property in the custody of a Federal agency which is not desired for retention by that agency nor utilized within any Federal agency in accordance with Subpart 101-48.1 nor donated in accordance with Subpart 101-48.2 shall be disposed of in accordance with the provisions of this Subpart 101-48.3

§ 101-48.302 Distilled spirits, wine, and malt beverages.

(a) Distilled spirits, wine, and malt beverages (as defined in § 101-48.001) which are not required to be reported under § 101-48.101-5(c)(4) shall be destroyed as prescribed in § 101-48.302(b); distilled spirits, wine, and malt beverages which are not required to be reported under § 101-48.101-5(c)(5) and which have not been donated as prescribed in Subpart 101-48.2 shall be destroyed in like manner.

(b) When reportable abandoned or forfeited distilled spirits, wine, and malt beverages are not retained by the holding agency, transferred to another agency, or donated to an eleemosynary institution by GSA, the Regional Administrator, General Services Administration, Region 3, will issue clearance to the agency which submitted the report as prescribed by § 101-48.101-5 for destruction of the distilled spirits, wine, and malt beverages. A record of the destruction showing time, place, and nomenclature and quantities destroyed shall be filed with papers and documents relating to the abandonment or forfeiture.

§ 101-48.303 Firearms.

Abandoned or forfeited firearms or voluntarily abandoned firearms shall not be sold as firearms. They may be disposed of by sale as scrap in the manner prescribed in § 101-45.309-4.

§ 101-48.304 Property other than distilled spirits, wine, and malt beverages and firearms.

(a) Property forfeited other than by court decree or voluntarily abandoned, except distilled spirits, wine, and malt beverages and firearms, which is not returned to a claimant, retained by the agency of custody, or transferred in accordance with Subpart 101-48.1 may be released to the holding agency by the Regional Administrator, General Services Administration, Region 3, for public sale except as otherwise provided by law.

(b) Abandoned or other unclaimed property which is not retained by the holding agency, not transferred to another agency, or not required to be reported by the provisions of § 101-48.102, may be reported for sale to the appropriate selling activity at any time after title vests in the United States as provided in § 101-48.102-1.

(c) Voluntarily abandoned, abandoned, or other unclaimed property and, in the absence of specific direction by a court, forfeited property, normally shall be sold by competitive bid as prescribed in § 101-45.304-1, subject to the same terms and conditions as would be applicable to the sale of surplus personal property. Voluntarily abandoned, abandoned, or other unclaimed property and forfeited property may be sold also by negotiation at the discretion of the selling agency but only under the circumstances set forth in § 101-45.304-2. Such property shall be identified by the holding agency as abandoned or other unclaimed, voluntarily abandoned, or forfeited property, and shall reported for sale to the appropriate GSA regional office or to such other agency as otherwise is responsible for selling its surplus personal property unless specifically required by law to be sold by the holding agency.

§ 101-48.305 Disposition of proceeds from sale.

§ 101-48.305-1 Abandoned or other unclaimed property.

(a) Proceeds from sale of abandoned or other unclaimed property shall be deposited in a special fund by the finding agency for a period of 3 years. A former owner may be reimbursed for abandoned or other unclaimed property which had been disposed of in accordance with the provisions of this Subpart 101-48.3 upon filing a proper claim with the finding agency within 3 years from the date of vesting of title in the United States. Such reimbursement shall not exceed the proceeds realized from the disposal of such property less disposal costs and costs of the care and handling of such property as determined by the head of the agency concerned.

(b) Records of abandoned or other unclaimed property shall be maintained in such a manner as to permit identification of the property with the original owner, if known, when such property is offered for sale. Records of proceeds received from the sale of abandoned or other unclaimed property shall be maintained as part of the permanent file and record of sale until the 3-year period for filing claims has elapsed.

§ 101-48.305-2 Forfeited or voluntarily abandoned property.

Proceeds from sale of property which has been forfeited other than by court decree, by court decree, or which has been voluntarily abandoned, shall be deposited in the Treasury of the United States as miscellaneous receipts or in such other agency accounts as provided by law or regulations.

Subparts 101-48.4—101-48.48 [Reserved]

Subpart 101-48.49—Illustrations of Forms

§ 101-48.4900 Scope of subpart.

This subpart illustrates forms prescribed for use in connection with subject matter covered in this Part 101-48.

§ 101-48.4901 [Reserved]

§ 101-48.4902 GSA forms.

(a) GSA Form 18, Application of Eleemosynary Institution, is illustrated in this § 101-8.4902 to show the text, format, and arrangement of the form and to provide a ready source of reference.

(b) Copies of the GSA Form 18 may be obtained from the General Services Administration (3FW), Washington, DC 20407.

§ 101-48.4902-18 GSA Form 18, Application of Eleemosynary Institution.

NOTE: The form illustrated at § 101-48.4902-18 is filed with the original document.

PART 101-49—UTILIZATION, DONATION, AND DISPOSAL OF FOREIGN GIFTS AND DECORATIONS

Sec.

101-49.000 Scope of part.
101-49.001 Definitions.
101-49.001-1 Employee.
101-49.001-2 Foreign government.
101-49.001-3 Gift.
101-49.001-4 Decoration.
101-49.001-5 Minimal value.
101-49.001-6 Employing agency.

Subpart 101-49.1—General Provisions

101-49.101 Custody of gifts and decorations.
101-49.102 Care and handling.
101-49.103 Information on availability for Federal utilization or donation.
101-49.104 Cooperation of employing agencies.
101-49.105 Appraisals.
101-49.106 Gifts and decorations received by Senators and Senate employees.
101-49.106-1 Disposal of gifts and decorations by the Senate.

Sec.

101-49.106-2 Disposal of gifts and decorations by GSA.
101-49.106-3 Gifts and decorations not disposed of by GSA.
101-49.107 Approvals.
101-49.108 Disposal of firearms.

Subpart 101-49.2—Utilization of Foreign Gifts and Decorations

101-49.200 Scope of subpart.
101-49.201 Reporting.
101-49.201-1 Gifts and decorations required to be reported.
101-49.201-2 Gifts and decorations not to be reported.
101-49.202 Transfers to other Federal agencies.
101-49.203 Costs incident to transfer.
101-49.204 Gifts and decorations no longer required by transferee agency.
101-49.205 Deposit of money and certain intangible gifts with the Department of the Treasury.

Subpart 101-49.3—Donation of Foreign Gifts and Decorations

101-49.300 Scope of subpart.
101-49.301 Donation of gifts and decorations.
101-49.302 Requests by public agencies and eligible nonprofit tax-exempt activities.
101-49.303 Allocation.
101-49.304 Conditions of donation.
101-49.305 Costs incident to donation.
101-49.306 Withdrawal of donable gifts and decorations for Federal utilization.
101-49.307 Donation of gifts withdrawn from sale.

Subpart 101-49.4—Sale or Destruction of Foreign Gifts and Decorations

101-49.400 Scope of subpart.
101-49.401 Sale of gifts.
101-49.402 Approval of sales by the Secretary of State.
101-49.403 Responsibility for sale.
101-49.404 Proceeds from sales.
101-49.405 Destruction of gifts and decorations.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); and sec. 515, 91 Stat. 862; 5 U.S.C. 7342.

SOURCE: 44 FR 53750, Sept. 17, 1979, unless otherwise noted.

§ 101-49.000 Scope of part.

This part prescribes policies and procedures governing the utilization, donation, and disposal of gifts and decorations from foreign governments in accordance with 5 U.S.C. 7342.

§ 101-49.001 Definitions.

For the purposes of this Part 101-49, the following terms shall have the meanings set forth in this section.

§ 101-49.001-1 Employee.

"Employee" means:

(a) An employee as defined by 5 U.S.C. 2105 and an officer or employee of the United States Postal Service or of the Postal Rate Commission;

(b) An expert or consultant who is under contract under 5 U.S.C. 3109 with the United States or any agency, department, or establishment thereof, including, in the case of an organization performing services under that section, any individual involved in the performance of the services;

(c) An individual employed by or occupying an office or position in the government of a territory or possession of the United States or the government of the District of Columbia;

(d) A member of a uniformed service;

(e) The President and the Vice President;

(f) A Member of Congress as defined by 5 U.S.C. 2106 (except the Vice President) and any Delegate to the Congress; and

(g) The spouse of an individual described in paragraphs (a) through (f) of this section (unless this individual and his or her spouse are separated) or a dependent (within the meaning of section 152 of the Internal Revenue Code of 1954) of this individual, other than a spouse or dependent who is an employee under paragraphs (a) through (f) of this section.

§ 101-49.001-2 Foreign government.

"Foreign government" means:

(a) Any unit of foreign governmental authority, including any foreign national, State, local, and municipal government;

(b) Any international or multinational organization whose membership is composed of any unit of a foreign government described in paragraph (a) of this section; and

(c) Any agent or representative of any unit or organization while acting as such.

§ 101-49.001-3 Gift.

"Gift" means a tangible or intangible present (other than a decoration) tendered by or received from a foreign government.

§ 101-49.001-4 Decoration.

"Decoration" means an order, device, medal, badge, insignia, emblem, or award tendered by or received from a foreign government.

§ 101-49.001-5 Minimal value.

"Minimal value" means a retail value in the United States at the time of acceptance of $100 or less, except that:

(a) On January 1, 1981, and at 3-year intervals thereafter, "minimal value" will be redefined in regulations prescribed by the Administrator of General Services, in consultation with the Secretary of State, to reflect changes in the consumer price index for the immediately preceding 3-year period; and

(b) Regulations of an employing agency may define "minimal value" for its employees to be less than the value provided under this section.

§ 101-49.001-6 Employing agency.

"Employing agency" means:

(a) The Committee on Standards of Official Conduct of the House of Representatives, for Members and employees of the House of Representatives, except that those responsibilities specified in 5 U.S.C. 7342(c)(2)(A), (e)(1), and (g)(2)(B) shall be carried out by the Clerk of the House;

(b) The Select Committee on Ethics of the Senate, for Senators and employees of the Senate, except that those responsibilities (other than responsibilities involving approval of the employing agency) specified in 5 U.S.C. 7342(c)(2), (d), and (g)(2)(B) shall be carried out by the Secretary of the Senate;

(c) The Administrative Office of the United States Courts, for judges and judicial branch employees; and

(d) The department, agency, office, or other entity in which an employee is employed, for other legislative branch employees and for all executive branch employees.

Subpart 101-49.1—General Provisions

§ 101-49.101 Custody of gifts and decorations.

(a) GSA generally will not take physical possession of gifts or decorations governed by this Part 101-49. Gifts and decorations shall remain in the custody and be the responsibility of the employing agency.

(b) GSA will direct the disposition of gifts and decorations when reported to GSA by the employing agency by:

(1) Transfer to Federal agencies;

(2) Donation for public display or reference purposes;

(3) Sale with the approval of the Secretary of State; or

(4) Destruction.

§ 101-49.102 Care and handling.

Each employing agency shall be responsible for and bear the cost of performing care and handling of gifts and decorations pending disposition and removal from its physical custody.

§ 101-49.103 Information on availability for Federal utilization or donation.

GSA will provide information on the availability of gifts and decorations, when reported to GSA, to Federal agencies and appropriate State agencies for surplus property.

§ 101-49.104 Cooperation of employing agencies.

Each employing agency shall cooperate fully in the inspection of gifts and decorations in its custody and in providing assistance in pickup and shipment upon receipt of GSA-approved documentation.

§ 101-49.105 Appraisals.

Employing agencies shall obtain independent appraisals of specific gifts when requested by GSA.

§ 101-49.106 Gifts and decorations received by Senators and Senate employees.

§ 101-49.106-1 Disposal of gifts and decorations by the Senate.

Gifts and decorations received by a Senator or an employee of the Senate that are deposited with the Secretary of the Senate for disposal or are deposited after termination of official use will be disposed of by the Commission on Art and Antiquities of the United States Senate in accordance with 5 U.S.C. 7342(e)(2).

§ 101-49.106-2 Disposal of gifts and decorations by GSA.

Gifts and decorations received by a Senator or an employee of the Senate not disposed of by the Commission on Art and Antiquities will be reported to GSA in accordance with § 101-49.201 for utilization, donation, or other disposal under this Part 101-49.

§ 101-49.106-3 Gifts and decorations not disposed of by GSA.

GSA will notify the Commission on Art and Antiquities when a gift or decoration received by a Senator or an employee of the Senate has not been disposed of within a year after the gift or decoration is reported to GSA. A gift or decoration not disposed of by GSA may be disposed of by the Commission on Art and Antiquities. The Commission on Art and Antiquities will notify GSA of its intent to dispose of a gift or decoration. Gifts and decorations that the Commission on Art and Antiquities does not wish to dispose of will continue to be handled and disposed of in accordance with this Part 101-49.

§ 101-49.107 Approvals.

The utilization, donation, or other disposal of gifts and decorations reported to GSA under this Part 101-49 will be approved by the Commissioner, Federal Property Resources Service, GSA.

§ 101-49.108 Disposal of firearms.

Firearms received as foreign gifts that are reported to GSA will be offered for transfer to Federal agencies, including law enforcement activities. Those firearms not transferred to a Federal activity may be donated for display purposes at the discretion of GSA. Sale of firearms shall be in accordance with § 101-45.309-4.

Subpart 101-49.2—Utilization of Foreign Gifts and Decorations

§ 101-49.200 Scope of subpart.

This subpart prescribes policies and procedures governing the utilization and transfer within the Federal Government of foreign gifts and decorations.

§ 101-49.201 Reporting.

§ 101-49.201-1 Gifts and decorations required to be reported.

(a) Except as provided in §§ 101-49.106 and 101-49.201-2, tangible gifts and decorations that are not retained for official use or returned to the donor shall be reported to GSA within 30 calendar days after deposit of the gift or decoration with the employing agency. Tangible gifts and decorations that have been retained for official use and have not been returned to the donor shall be reported to GSA within 30 calendar days after termination of the official use. Gifts and decorations shall be reported on Standard Form 120, Report of Excess Personal Property (see § 101-43.4901-120), to the General Services Administration (DP), Washington, DC 20406. The Standard Form 120 shall be conspicuously marked "FOREIGN GIFTS AND/OR DECORATIONS" and include the following information:

(1) The name and position of the employee recipient;

(2) A full description of the gift or decoration;

(3) The identity, if known, of the foreign government and the name and position of the individual who presented the gift or decoration;

(4) The date of acceptance of the gift or decoration;

(5) The estimated value in the United States of the gift or decoration at the time of acceptance, or the appraised value, if known;

(6) The current location of the gift or decoration;

(7) The name, address, and telephone number of the responsible accountable official in the employing agency; and

(8) An indication whether the employee recipient is interested in purchasing the gift if it is sold by GSA.

(b) Gifts and decorations received by the President or a member of the President's family will be reported to the General Services Administration (NL), Washington, DC 20408, using Standard Form 120, completed as described in paragraph (a) of this section.

(c) The Central Intelligence Agency may delete the information required in paragraphs (a) (1) and (3) of this section if the Director of Central Intelligence certifies in writing to the Secretary of State that the publication of this information could adversely affect U.S. intelligence sources.

(d) This report has been cleared in accordance with FPMR 101-11.11 and is exempt from reports control.

§ 101-49.201-2 Gifts and decorations not to be reported.

(a) The following gifts and decorations shall not be reported to GSA:

(1) Gifts and decorations returned to the donor;

(2) Gifts and decorations retained by the employing agency for official use, except upon termination of the official use;

(3) Decorations retained by the employee recipient with the approval of the employing agency;

(4) Intangible gifts, including checks, money orders, bonds, shares of stock, and other securities and negotiable instruments (see § 101-49.205);

(5) Cash, currency, and money, except those with possible historic or numismatic value (see § 101-49.205); and

(6) Gifts and decorations received by a Senator or an employee of the Senate disposed of by the Commission on Art and Antiquities of the United States (see § 101-49.106).

(b) Gifts and decorations covered by paragraphs (a) (1), (2), and (3) of this section will be handled in accordance with employing agency regulations.

§ 101-49.202 Transfers to other Federal agencies.

(a) Gifts and decorations will be made available for transfer for a period of 60 calendar days following receipt by GSA of the Standard Form 120 to activities specified in § 101-

43.315-1. Transfers will be made as considered appropriate by GSA, generally on a first-come-first-served basis.

(b) Transfers will be accomplished by submitting for approval a Standard Form 122, Transfer Order Excess Personal Property (see § 101-43.4901-122), or any other transfer order form approved by GSA, to the General Services Administration (DP), Washington, DC 20406. The Standard Form 122 or other transfer order form shall be conspicuously marked "FOREIGN GIFTS AND/OR DECORATIONS" and include all information furnished by the employing agency as specified in § 101-49.201-1(a).

§ 101-49.203 Costs incident to transfer.

All transfers of gifts and decorations will be made without reimbursement, except that direct costs incurred by the employing agency in actual packing, preparation for shipment, loading, and transportation may be recovered by the employing agency from the transferee agency if billed by the employing agency. (See § 101-43.317-1.)

§ 101-49.204 Gifts and decorations no longer required by transferee agency.

Gifts and decorations no longer required by the transferee agency shall be reported as provided in § 101-49.201-1.

§ 101-49.205 Deposit of money and certain intangible gifts with the Department of the Treasury.

Money, cash, currency, and such intangible gifts as checks, money orders, bonds, shares of stock, and other securities and negotiable instruments not required to be reported to GSA shall be deposited with the Department of the Treasury by the employing agency in accordance with applicable laws and regulations.

Subpart 101-49.3—Donation of Foreign Gifts and Decorations

§ 101-49.300 Scope of subpart.

This subpart prescribes policies and procedures governing the donation of foreign gifts and decorations to public agencies and eligible nonprofit tax-exempt activities for public display purposes and, in the case of books or manuscripts, for public display or reference purposes.

§ 101-49.301 Donation of gifts and decorations.

(a) Gifts and decorations for which there is no Federal requirement as determined by GSA will be made available at the discretion of GSA through State agencies to appropriate public agencies and eligible nonprofit tax-exempt activities for a period of 21 calendar days following the period of Federal utilization as provided in § 101-49.202(a).

(b) Donations of gifts and decorations will be made for public display purposes and, in the case of books or manuscripts, for public display or reference purposes. Donations will be made in accordance with Part 101-44, except as otherwise provided in this Subpart 101-49.3.

§ 101-49.302 Requests by public agencies and eligible nonprofit tax-exempt activities.

Requests for donation of gifts and decorations to public agencies and eligible nonprofit tax-exempt activities shall be supported with a letter of intent, signed and dated by the authorized representative of the proposed donee, describing the intended use of the items and the manner in which they would be displayed or used for reference purposes. Donations of gifts and decorations will be accomplished by submitting for approval a Standard Form 123, Transfer Order Surplus Personal Property (see § 101-44.4901-123), to the General Services Administration (DP), Washington, DC 20406. The Standard Form 123 shall be prepared and distributed in accordance with the instructions in § 101-44.4901-123-1 and shall be conspicuously marked "FOREIGN GIFTS AND/OR DECORATIONS."

§ 101-49.303 Allocation.

Allocation of gifts and decorations will be made by GSA on a fair and equitable basis for the maximum public benefit. The following will be considered by GSA in effecting allocation and transfer of gifts and decorations among the States:

(a) Requests submitted through a State agency for a specific gift or decoration when the donee requesting the item has an association or relationship with the employee recipient. Such a request may be further supported by a letter from the employee recipient;

(b) Significance of the gift or decoration to the requesting donee;

(c) Requests submitted through a State agency by public museums;

(d) Quantity and value of the gifts or decorations;

(e) Prior receipt of similar items; and

(f) Other criteria as considered appropriate by GSA.

§ 101-49.304 Conditions of donation.

The State agency shall require the donee to agree in writing to the following special handling conditions and use limitations imposed by GSA on the donation of gifts or decorations:

(a) The donee, at its expense, shall be responsible for making arrangements for and removing the gift or decoration and for packing, handling, transportation, and reasonable insurance costs associated with the removal.

(b) The gift or decoration shall be used for public display purposes and, in the case of books or manuscripts, for public display or reference purposes at the times and in the manner as other similar items are displayed or used in the donee's exhibition or reference rooms. The gift or decoration shall not be used for the personal benefit of any individual.

(c) The donee shall place the gift or decoration into use for public display or reference purposes within 12 months following receipt and use the gift or decoration in accordance with this section for the following period of restriction after being placed in use:

(1) One year, for a gift valued at $100 or less;

(2) Three years, for a gift valued at more than $100 and less than $1,000, and decorations;

(3) Five years, for a gift valued at more than $1,000; or

(4) A period longer than 5 years when specified by GSA for any gift or decoration.

(d) The donee shall comply with all additional restrictions covering the handling and use of any gift or decoration imposed by GSA.

(e) For all gifts or decorations having a period of restriction of 5 years or longer, the donee shall, during the period of restriction, submit an annual report to GSA through the State agency. The report shall contain a description of the current condition and use of those gifts or decorations, and a certification that the donee is in compliance with the conditions of donation for all gifts or decorations that the donee has received.

(f) To determine whether the donee is complying with the conditions of the donation, the donee shall allows the right of access to the donee's premises at reasonable times for inspection of the gift or decoration by duly authorized representatives of the Federal Government or the State agency.

(g) During the period of restriction, the donee shall not sell, trade, lease, lend, bail, encumber, cannibalize, or dismantle for parts or otherwise dispose of the property; or remove it permanently for use outside the State; or transfer title to the gift or decoration directly or indirectly; or do or allow anything to be done that would cause the gift or decoration to be seized, taken into execution, attached, lost, stolen, damaged, or destroyed.

(h) In the event the donee no longer desires to use the gift or decoration for public display or reference purposes as provided in this section during the period of restriction prescribed in paragraph (c) of this section, the donee shall notify the General Services Administration (DP), Washington, DC 20406, through the State agency and, upon demand by GSA, title and right to possession of the gift or decoration shall revert to the U.S. Government. In this event, the donee shall comply with transfer or disposition instructions furnished by GSA through the State agency, with costs of transportation, handling, and reasonable insurance during transportation to be paid by the donee or the Government as directed by GSA.

(i) Upon the donee's failure to comply with any of the above conditions, GSA may demand return of the gift or decoration and, upon demand, title and right to possession of the gift or decoration shall revert to the U.S. Government. In this event, the donee shall return the gift or decoration in accordance with instructions furnished by GSA, with costs of transportation, handling, and reasonable insurance during transportation to be paid by the donee or the Government as directed by GSA. If the gift or decoration is lost, stolen, or cannot legally be recovered or returned for any other reason, the donee shall pay to GSA the fair market value of the gift or decoration at the time of this demand as determined by GSA. If the gift or decoration is damaged or destroyed, GSA may require the donee to (1) return the item and pay the difference between the fair market value of the item if it were not damaged or destroyed and the fair market value of the damaged or destroyed item, or (2) pay the fair market value of the item if it were not damaged or destroyed, as determined by GSA.

§ 101-49.305 Costs incident to donation.

Costs incurred incident to donation of gifts and decorations shall be handled in accordance with § 101-44.104.

§ 101-49.306 Withdrawal of donable gifts and decorations for Federal utilization.

Gifts and decorations set aside or approved for donation may be withdrawn for Federal utilization in accordance with § 101-44.101.

§ 101-49.307 Donation of gifts withdrawn from sale.

Gifts that are being offered for sale may be withdrawn and approved for donation in accordance with § 101-44.107.

Subpart 101-49.4—Sale or Destruction of Foreign Gifts and Decorations

§ 101-49.400 Scope of subpart.

This subpart prescribes policies and procedures governing the disposal by sale or destruction of foreign gifts and decorations that GSA has determined are not needed for Federal utilization or donation.

§ 101-49.401 Sale of gifts.

Gifts will be sold by GSA as follows:

(a) Gifts will be offered through negotiated sales to eligible employee recipients who have indicated an interest in purchasing the items. (See § 101-49.201-1(a)(8).) The sales price will be the appraised value of the gifts plus the cost of the appraisal.

(b) Gifts that are not sold under paragraph (a) of this section will be sold in accordance with Part 101-45.

§ 101-49.402 Approval of sales by the Secretary of State.

The approval of the Secretary of State or the Secretary's designee shall be obtained before offering any gift for sale.

§ 101-49.403 Responsibility for sale.

GSA will be responsible for the sale of gifts. Sales will be conducted by or at the direction of the General Services Administration. Each employing agency shall cooperate fully with GSA in the sale of gifts in its custody.

§ 101-49.404 Proceeds from sales.

The proceeds from the sale of gifts shall be deposited in the Treasury as miscellaneous reciepts, unless otherwise authorized by law or regulation.

§ 101-49.405 Destruction of gifts and decorations.

Gifts that are not sold under this Subpart 101-49.4 and decorations may be destroyed and disposed of as scrap or for their material content.

APPENDIX TO SUBCHAPTER H—TEMPORARY REGULATIONS

[EDITORIAL NOTE: The following is a list of temporary regulations, except delegations of authority, which relate to Federal property management and are in effect as of the revision date of this volume]

FPMR Temp. Reg.	Subject	Expires	FR Publication
H-22	Recovery of costs of care and handling of surplus personal property under the control of the Department of Defense.	Will remain in effect until superseded or cancelled.	45 FR 73050, Nov. 4, 1980.
[1] H-23	Reporting motor vehicles for disposal and release of vehicles after sale.	Oct. 1, 1981	45 FR 77436, Nov. 24, 1980.

[1] This temporary regulation appears in full text below.

[FPMR Temp. Reg. H-23]

REPORTING MOTOR VEHICLES FOR DISPOSAL AND RELEASE OF VEHICLES AFTER SALE

November 13, 1980.

1. *Purpose.* This regulation requires Federal agencies to submit odometer information to the selling agency when reporting vehicles for disposal.

2. *Effective date.* This regulation is effective upon publication in the FEDERAL REGISTER.

3. *Expiration date.* This regulation expires on October 1, 1981.

4. *Applicability.* The provisions of this regulation apply to those Federal agencies that report motor vehicles for disposal.

5. *Background.* 49 CFR Part 580, Odometer Disclosure Requirements, implements section 408(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1988(a)). This regulation requires the transferor of a motor vehicle to make a written disclosure to the transferee concerning the accuracy of odometer mileage. To implement this requirement to cover the sale of Government motor vehicles, revised Standard Form 97 (Rev. 7-79), the United States Government Certificate of Release of a Motor Vehicle, and Standard Form 97-A, Agency Record Copy of the United States Government Certificate of Release of a Motor Vehicle, include the required odometer mileage statement. In order for the selling agency to make the required certification, agencies reporting vehicles for disposal must provide the additional information required by par. 6.

6. *Motor vehicle reporting requirements and release of vehicles after sale.* a. Reporting agencies must enter the following additional information on Standard Forms 120, Report of Excess Personal Property, and Standard Forms 126, Report of Personal Property for Sale, covering motor vehicles. Vehicles with odometers which require the same certification may be item numbered sequentially on the reporting document and one certification (see (2), below) given covering the vehicles.

(1) The mileage shown on the vehicle odometer; and

(2) A certification as follows (see attachment A for a complete explanation of each block):

```
Mileage shown for item    1. ☐ Correct                 )
                             ☐ Turned Over             )Check One
No(s).__________is/are:   3. ☐ Incorrect               )

Odometer(s) has/have:     4. ☐ Not been altered        )
                          5. ☐ Been altered-correct    )Check One
                          6. ☐ Been altered-incorrect)
```

b. Delivery of motor vehicles to purchasers shall be evidenced by submitting to the purchaser a completed copy of Standard Form 97/97-A. This form contains the odometer certification required by section 408(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1988(a)).

c. The agency reporting document containing the necessary certification is used by the selling agency as the basis for making the odometer certification on Standard Form 97/97-A. The completed Standard Form 97/97-A is forwarded to the custodian with the GSA Form 27, Notice of Award, authorizing the custodian to release the property. At the time of release the custodian will obtain the signature of the buyer or his/her authorized representative in the "Signature of Transferee (Buyer)" block at the bottom of the Standard Form 97, and distribute the form as follows:

(1) Provide the original to the purchaser at the time of release; and

(2) Mail the two copies of the Standard Form 97-A to the appropriate selling agency with the signed release copy of GSA Form 27, Notice of Award. The selling agency shall then provide one of these copies to the owning agency.

d. If agencies should elect to sell their own motor vehicles using the small lot authority under FPMR 101-45.105-3, a supply of Standard Forms 97/97-A to cover these vehicles should be requested from the supporting GSA regional office.

e. Proper precautions must be taken by agency heads to prevent blank copies of Standard Form 97/97-A from being obtained by unauthorized persons.

7. *Agency comments.* Comments concerning the effect or impact of this regulation on agency operations or programs should be submitted to the General Services Administration (DPS), Washington, DC 20405, no later than April 1, 1981.

8. *Effect on other directives.* This regulation supplements the policies in FPMR 101-45.303.

NOTE: The form as illustrated in Attachment A is filed with the original document and does not appear in this volume.

R.G. FREEMAN III,
Administrator of General Services.

[45 FR 77436, Nov. 24, 1980]

FINDING AIDS

A list of CFR titles, subtitles, chapters, subchapters and parts and an alphabetical list of agencies publishing in the CFR are included in the CFR Index and Finding Aids volume to the Code of Federal Regulations which is published separately and revised semiannually (January 1 and July 1).

Material Approved for Incorporation by Reference
Table of CFR Titles and Chapters
Alphabetical List of Agencies Appearing in the CFR
Redesignation table
List of CFR Sections Affected

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Material Approved for Incorporation by Reference

The Director of the Federal Register approves the following incorporations by reference for one year effective July 1, 1981, unless otherwise noted (5 U.S.C. 552(a) and 1 CFR Part 51). For more information on incorporation by reference, see the preliminary pages of this volume.

41 CFR CHAPTER 101—GENERAL SERVICES ADMINISTRATION

General Services Administration
Washington, DC 20405
(The following publications are distributed in accordance with 41 CFR 101-1.104-2 and are available in accordance with 41 CFR 105-60.3.)

	CFR Citation
Federal Travel Regulations GSA Bulletin FPMR A-40 as supplemented by FPMR Temporary Regulation A-11 and its Supplements 4, 8, 9, 10, and 11, September 26, 1980.	101-7.003(a)
Commuted rate schedule for transportation of household goods GSA Bulletin FPMR A-2 thru Supplement 92, October 27, 1980.	101-7.003(b)

[46 FR 33980, June 30, 1981]

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Table of CFR Titles and Chapters

(As of June 19, 1981)

Title 1—General Provisions

Chap.	
I	Administrative Committee of the Federal Register (Parts 1-49)
II	Office of the Federal Register (Parts 50-299)
III	Administrative Conference of the United States (Parts 300-399)
IV	Miscellaneous Agencies (Parts 400-499)

Title 2—[Reserved]

Title 3—The President

	Proclamations
	Executive Orders
	Presidential Documents Other Than Proclamations and Executive Orders
I	Executive Office of the President (Parts 100-199)

Title 4—Accounts

I	General Accounting Office (Parts 1-99)
II	Federal Claims Collection Standards (General Accounting Office—Department of Justice) (Parts 100-299)
III	General Accounting Office (CASB) (Parts 300-499)

Title 5—Administrative Personnel

I	Office of Personnel Management (Parts 0-1199)
II	Merit Systems Protection Board (Parts 1200-1299)
III	Office of Management and Budget (Parts 1300-1399)
IV	Advisory Committee on Federal Pay (Parts 1400-1499)
V	The International Organizations Employees Loyalty Board (Parts 1500-1599)
VII	Advisory Commission on Intergovernmental Relations (Parts 1700-1799)
IX	Appalachian Regional Commission (Parts 1900-1999)
XI	United States Soldiers' and Airmen's Home (Parts 2100-2199)
XIV	Federal Labor Relations Authority and Federal Service Impasses Panel (Parts 2400-2499)

Title 5—Administrative Personnel—Continued

Chap.	
XV	Office of Administration, Executive Office of the President (Parts 2500-2599)

Title 6—Economic Stabilization

VI	Assistant Secretary for Administration, Department of the Treasury (Parts 600-699)
VII	Council on Wage and Price Stability (Parts 700-799)

Title 7—Agriculture

	SUBTITLE A—Office of the Secretary of Agriculture (Parts 0-25a)
	SUBTITLE B—Regulations of the Department of Agriculture
I	Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture (Parts 26-209)
II	Food and Nutrition Service, Department of Agriculture (Parts 210-299)
III	Animal and Plant Health Inspection Service, Department of Agriculture (Parts 300-399)
IV	Federal Crop Insurance Corporation, Department of Agriculture (Parts 400-499)
V	Agricultural Research Service, Department of Agriculture (Parts 500-599)
VI	Soil Conservation Service, Department of Agriculture (Parts 600-699)
VII	Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture (Parts 700-799)
VIII	Federal Grain Inspection Service, Department of Agriculture (Parts 800-899)
IX	Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture (Parts 900-999)
X	Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture (Parts 1000-1199)
XI	Agricultural Marketing Service (Marketing Agreements and Orders; Miscellaneous Commodities), Department of Agriculture (Parts 1200-1299)
XII	Statistical Reporting Service (Agricultural Statistics), Department of Agriculture (Parts 1300-1399)
XIV	Commodity Credit Corporation, Department of Agriculture (Parts 1400-1499)
XV	Foreign Agricultural Service, Department of Agriculture (Parts 1500-1599)
XVI	Rural Telephone Bank, Department of Agriculture (Parts 1600-1699)
XVII	Rural Electrification Administration, Department of Agriculture (Parts 1700-1799)
XVIII	Farmers Home Administration, Department of Agriculture (Parts 1800-2099)

Title 7—Agriculture—Continued

Chap.	
XXI	Foreign Economic Development Service, Department of Agriculture (Parts 2100-2199)
XXIV	Board of Contract Appeals, Department of Agriculture (Parts 2400-2499)
XXV	Office of the General Sales Manager, Department of Agriculture (Parts 2500-2599)
XXVI	Office of the Inspector General, Department of Agriculture (Parts 2600-2699)
XXVIII	Food Safety and Quality Service, Department of Agriculture (Parts 2800-2899)
XXIX	Office of Energy, Department of Agriculture (Parts 2900-2999)
XXX	Office of Operations and Finance, Department of Agriculture (Parts 3000-3099)
XXXI	Office of Environmental Quality, Department of Agriculture (Parts 3100-3199)

Title 8—Aliens and Nationality

I	Immigration and Naturalization Service, Department of Justice (Parts 1-499)

Title 9—Animals and Animal Products

I	Animal and Plant Health Inspection Service, Department of Agriculture (Parts 1-199)
II	Agricultural Marketing Service (Packers and Stockyards), Department of Agriculture (Parts 200-299)
III	Food Safety and Quality Service, Meat and Poultry Inspection, Department of Agriculture (Parts 300-399)

Title 10—Energy

I	Nuclear Regulatory Commission (Parts 0-199)
II	Department of Energy (Parts 200-699)
III	Department of Energy (Parts 700-999)
X	Department of Energy (General Provisions) (Parts 1000-1099)
XV	Office of the Federal Inspector for the Alaska Natural Gas Transportation System (Parts 1500-1599)

Title 11—Federal Elections

I	Federal Election Commission (Parts 1-9099)

Title 12—Banks and Banking

I	Comptroller of the Currency, Department of the Treasury (Parts 1-199)
II	Federal Reserve System (Parts 200-299)
III	Federal Deposit Insurance Corporation (Parts 300-399)
IV	Export-Import Bank of the United States (Parts 400-499)

Title 12—Banks and Banking—Continued

Chap.	
V	Federal Home Loan Bank Board (Parts 500-599)
VI	Farm Credit Administration (Parts 600-699)
VII	National Credit Union Administration (Parts 700-799)
VIII	Federal Financing Bank (Parts 800-899)
XI	Federal Financial Institutions Examination Council (Parts 1100-1199)
XII	Depository Institutions Deregulation Committee (Parts 1200-1299)

Title 13—Business Credit and Assistance

I	Small Business Administration (Parts 1-199)
III	Economic Development Administration, Department of Commerce (Parts 300-399)
IV	Chrysler Corporation Loan Guarantee Board (Parts 400-499)
V	Regional Action Planning Commissions (Parts 500-599)

Title 14—Aeronautics and Space

I	Federal Aviation Administration, Department of Transportation (Parts 1-199)
II	Civil Aeronautics Board (Parts 200-399)
V	National Aeronautics and Space Administration (Parts 1200-1299)

Title 15—Commerce and Foreign Trade

	SUBTITLE A—Office of the Secretary of Commerce (Parts 0-19)
	SUBTITLE B—Regulations Relating to Commerce and Foreign Trade
I	Bureau of the Census, Department of Commerce (Parts 20-199)
II	National Bureau of Standards, Department of Commerce (Parts 200-299)
III	International Trade Administration, Department of Commerce (Parts 300-399)
IV	Foreign-Trade Zones Board (Parts 400-499)
V	United States Metric Board (Parts 500-599)
VI	Bureau of Industrial Economics, Department of Commerce (Parts 600-699)
VIII	Bureau of Economic Analysis, Department of Commerce (Parts 800-899)
IX	National Oceanic and Atmospheric Administration, Department of Commerce (Parts 900-999)
XII	United States Travel Service, Department of Commerce (Parts 1300-1399)
XIII	East-West Foreign Trade Board (Parts 1300-1999)
	SUBTITLE C—Regulations Relating to Foreign Trade Agreements

Title 15—Commerce and Foreign Trade—Continued

Chap.	
XX	Office of the United States Trade Representative (Parts 2000-2099)
	SUBTITLE D—Regulations Relating to Telecommunications and Information
XXIII	National Telecommunications and Information Administration, Department of Commerce (Parts 2300-2399)

Title 16—Commercial Practices

I	Federal Trade Commission (Parts 0-999)
II	Consumer Product Safety Commission (Parts 1000-1799)

Title 17—Commodity and Securities Exchanges

I	Commodity Futures Trading Commission (Parts 1-199)
II	Securities and Exchange Commission (Parts 200-399)

Title 18—Conservation of Power and Water Resources

I	Federal Energy Regulatory Commission, Department of Energy (Parts 1-399)
III	Delaware River Basin Commission (Parts 400-499)
IV	Office of Water Resources Research, Department of the Interior (Parts 500-599)
VI	Water Resources Council (Parts 700-799)
VIII	Susquehanna River Basin Commission (Parts 800-899)
XIII	Tennessee Valley Authority (Parts 1300-1399)

Title 19—Customs Duties

I	United States Customs Service, Department of the Treasury (Parts 1-199)
II	United States International Trade Commission (Parts 200-299)
III	International Trade Administration, Department of Commerce (Parts 300-399)

Title 20—Employees' Benefits

I	Office of Workers' Compensation Programs, Department of Labor (Parts 1-199)
II	Railroad Retirement Board (Parts 200-399)
III	Social Security Administration, Department of Health and Human Services (Parts 400-499)
IV	Employees' Compensation Appeals Board, Department of Labor (Parts 500-599)
V	Employment and Training Administration, Department of Labor (Parts 600-699)
VI	Employment Standards Administration, Department of Labor (Parts 700-799)
VII	Benefits Review Board, Department of Labor (Parts 800-899)

Title 20—Employees' Benefits—Continued

Chap.	
VIII	Joint Board for the Enrollment of Actuaries (Parts 900-999)

Title 21—Food and Drugs

I	Food and Drug Administration, Department of Health and Human Services (Parts 1-1299)
II	Drug Enforcement Administration, Department of Justice (Parts 1300-1399)

Title 22—Foreign Relations

I	Department of State (Parts 1-199)
II	Agency for International Development, International Development Cooperation Agency (Parts 200-299)
III	Peace Corps (Parts 300-399)
IV	International Joint Commission, United States and Canada (Parts 400-499)
V	International Communication Agency (Parts 500-599)
VI	United States Arms Control and Disarmament Agency (Parts 600-699)
VII	Overseas Private Investment Corporation (Parts 700-799)
VIII	Employee-Management Relations Commission (Parts 800-899)
IX	Foreign Service Grievance Board (Parts 900-999)
X	Inter-American Foundation (Parts 1000-1099)
XI	International Boundary and Water Commission, United States and Mexico, United States Section (Parts 1100-1199)
XII	United States International Development Cooperation Agency (Parts 1200-1299)
XIII	Board for International Broadcasting (Parts 1300-1399)
XIV	Foreign Service Labor Relations Board;Federal Labor Relations Authority; General Counsel of the Federal Labor Relations Authority; and the Foreign Service Impasse Disputes Panel (Parts 1400-1499)

Title 23—Highways

I	Federal Highway Administration, Department of Transportation (Parts 1-999)
II	National Highway Traffic Safety Administration and Federal Highway Administration, Department of Transportation (Parts 1200-1299)

Title 24—Housing and Urban Development

	Subtitle A—Office of the Secretary, Department of Housing and Urban Development (Parts 0-99)
	Subtitle B—Regulations Relating to Housing and Urban Development
I	Office of Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development (Parts 100-199)

Title 24—Housing and Urban Development—Continued

Chap.	
II	Office of Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (Parts 200-299)
III	Government National Mortgage Association, Department of Housing and Urban Development (Parts 300-399)
IV	Office of Assistant Secretary for Housing Management, Department of Housing and Urban Development (Parts 400-499)
V	Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 500-599)
VI	Office of Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development (Parts 600-699)
VII	New Community Development Corporation, Department of Housing and Urban Development (Parts 700-799)
VIII	Low-Income Housing, Department of Housing and Urban Development (Parts 800-899)
IX	Office of Interstate Land Sales Registration, Department of Housing and Urban Development (Parts 1700-1799)
X	Solar Energy and Energy Conservation Bank, Department of Housing and Urban Development (Parts 1800-1899)
XV	Mortgage Insurance and Loan Programs Under the Emergency Homeowners' Relief Act, Department of Housing and Urban Development (Parts 2700-2799)
XX	Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection, Department of Housing and Urban Development (Parts 3200-3699)
XXV	Neighborhood Reinvestment Corporation (Parts 4100-4199)

Title 25—Indians

I	Bureau of Indian Affairs, Department of the Interior (Parts 1-299)
II	Indian Arts and Crafts Board, Department of the Interior (Parts 300-399)
IV	Navajo and Hopi Indian Relocation Commission (Parts 700-799)

Title 26—Internal Revenue

I	Internal Revenue Service, Department of the Treasury (Parts 1-699)

Title 27—Alcohol, Tobacco Products and Firearms

I	Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury (Parts 1-299)

Title 28—Judicial Administration

I	Department of Justice (Parts 0-199)
III	Federal Prison Industries, Department of Justice (Parts 300-399)

Title 28—Judicial Administration—Continued

Chap.	
V	Bureau of Prisons, Department of Justice (Parts 500-599)

Title 29—Labor

	SUBTITLE A—Office of the Secretary of Labor (Parts 0-99)
	SUBTITLE B—Regulations Relating to Labor
I	National Labor Relations Board (Parts 100-199)
II	Office of the Assistant Secretary for Labor-Management Relations, Department of Labor (Parts 200-299)
III	National Railroad Adjustment Board (Parts 300-399)
IV	Office of Labor-Management Standards Enforcement, Department of Labor (Parts 400-499)
V	Wage and Hour Division, Department of Labor (Parts 500-899)
IX	Construction Industry Collective Bargaining Commission (Parts 900-999)
X	National Mediation Board (Parts 1200-1299)
XII	Federal Mediation and Conciliation Service (Parts 1400-1499)
XIV	Equal Employment Opportunity Commission (Parts 1600-1699)
XVII	Occupational Safety and Health Administration, Department of Labor (Parts 1900-1999)
XX	Occupational Safety and Health Review Commission (Parts 2200-2499)
XXV	Pension and Welfare Benefit Programs, Department of Labor (Parts 2500-2599)
XXVI	Pension Benefit Guaranty Corporation (Parts 2600-2699)
XXVII	Federal Mine Safety and Health Review Commission (Parts 2700-2799)

Title 30—Mineral Resources

I	Mine Safety and Health Administration, Department of Labor (Parts 1-199)
II	Geological Survey, Department of the Interior (Parts 200-299)
III	Board of Surface Mining and Reclamation Appeals, Department of the Interior (Parts 300-399)
VI	Bureau of Mines, Department of the Interior (Parts 600-699)
VII	Office of Surface Mining Reclamation and Enforcement, Department of the Interior (Parts 700-999)

Title 31—Money and Finance: Treasury

	SUBTITLE A—Office of the Secretary of the Treasury (Parts 0-50)
	SUBTITLE B—Regulations Relating to Money and Finance
I	Monetary Offices, Department of the Treasury (Parts 51-199)
II	Fiscal Service, Department of the Treasury (Parts 200-399)
IV	Secret Service, Department of the Treasury (Parts 400-499)
V	Office of Foreign Assets Control, Department of the Treasury (Parts 500-599)

Title 31—Money and Finance: Treasury—Continued

Chap.	
VI	Bureau of Engraving and Printing, Department of the Treasury (Parts 600-699)
VII	Federal Law Enforcement Training Center, Department of the Treasury (Parts 700-799)

Title 32—National Defense

	SUBTITLE A—Department of Defense
I	Office of the Secretary of Defense (Parts 1-499)
V	Department of the Army (Parts 500-699)
VI	Department of the Navy (Parts 700-799)
VII	Department of the Air Force (Parts 800-1099)
	SUBTITLE B—Other Regulations Relating to National Defense
XII	Defense Logistics Agency (Parts 1200-1299)
XVI	Selective Service System (Parts 1600-1699)
XIX	Central Intelligence Agency (Parts 1900-1999)
XX	Information Security Oversight Office (Parts 2000-2099)
XXI	National Security Council (Parts 2100-2199)
XXIV	Office of Science and Technology Policy (Parts 2400-2499)
XXVII	Office for Micronesian Status Negotiations (Parts 2700-2799)
XXVIII	Office of the Vice President of the United States (Parts 2800-2899)

Title 33—Navigation and Navigable Waters

I	Coast Guard, Department of Transportation (Parts 1-199)
II	Corps of Engineers, Department of the Army (Parts 200-399)
IV	Saint Lawrence Seaway Development Corporation, Department of Transportation (Parts 400-499)

Title 34—Education

	SUBTITLE A—Office of the Secretary, Department of Education (Parts 1-99)
	SUBTITLE B—Regulations of the Offices of the Department of Education
I	Office for Civil Rights, Department of Education (Parts 100-199)
II	Office of Elementary and Secondary Education, Department of Education (Parts 200-299)
III	Office of Special Education and Rehabilitative Services, Department of Education (Parts 300-399)
IV	Office of Vocational and Adult Education, Department of Education (Parts 400-499)
V	Office of Bilingual Education and Minority Languages Affairs, Department of Education (Parts 500-599)
VI	Office of Postsecondary Education, Department of Education (Parts 600-699)

Title 34—Education—Continued

Chap.	
VII	Office of Educational Research and Improvement, Department of Education (Parts 700-799)
VIII	Office of Education for Overseas Dependents, Department of Education (Parts 800-899)

Title 35—Panama Canal

I	Panama Canal Regulations (Parts 1-299)

Title 36—Parks, Forests, and Public Property

I	National Park Service, Department of the Interior (Parts 1-199)
II	Forest Service, Department of Agriculture (Parts 200-299)
III	Corps of Engineers, Department of the Army (Parts 300-399)
IV	American Battle Monuments Commission (Parts 400-499)
V	Smithsonian Institution (Parts 500-599)
VII	Library of Congress (Parts 700-799)
VIII	Advisory Council on Historic Preservation (Parts 800-899)
IX	Pennsylvania Avenue Development Corporation (Parts 900-999)
X	Commission of Fine Arts (Parts 1000-1099)
XI	Architectural and Transportation Barriers Compliance Board (Parts 1100-1199)
XII	Heritage Conservation and Recreation Service, Department of the Interior (Parts 1200-1299)

Title 37—Patents, Trademarks, and Copyrights

I	Patent and Trademark Office, Department of Commerce (Parts 1-199)
II	Copyright Office, Library of Congress (Parts 200-299)
III	Copyright Royalty Tribunal (Parts 300-399)

Title 38—Pensions, Bonuses, and Veterans' Relief

I	Veterans Administration (Parts 0-99)

Title 39—Postal Service

I	United States Postal Service (Parts 1-999)
III	Postal Rate Commission (Parts 3000-3099)

Title 40—Protection of Environment

I	Environmental Protection Agency (Parts 1-799)
IV	Low-Emission Vehicle Certification Board (Parts 1400-1499)
V	Council on Environmental Quality (Parts 1500-1599)

Title 41—Public Contracts and Property Management

SUBTITLE A—Federal Procurement Regulations System

Chap.	
1	Federal Procurement Regulations (Parts 1-1—1-99)
3	Department of Health and Human Services (Parts 3-1—3-99)
4	Department of Agriculture (Parts 4-1—4-99)
5	General Services Administration (Part 5-1—5-99)
5A	Office of Acquisition Policy, General Services Administration (Parts 5A-1—5A-99)
5B	Office of Acquisition Policy, General Services Administration (Parts 5B-1—5B-99)
6	Department of State (Parts 6-1—6-99)
7	Agency for International Development, International Development Cooperation Agency (Parts 7-1—7-99)
8	Veterans Administration (Parts 8-1—8-99)
9	Department of Energy (Parts 9-1—9-99)
10	Department of the Treasury (Parts 10-1—10-99)
12	Department of Transportation (Parts 12-1—12-99)
13	Department of Commerce (Parts 13-1—13-99)
14	Department of the Interior (Parts 14-1—14-99)
14H	Bureau of Indian Affairs, Department of the Interior (Parts 14H-1—14H-99)
14R	Office of Water Research and Technology, Department of the Interior (Parts 14R-1—14R-99)
15	Environmental Protection Agency (Parts 15-1—15-99)
18	National Aeronautics and Space Administration (Parts 18-1—18-99)
19	International Communication Agency (Parts 19-1—19-99)
20	Nuclear Regulatory Commission (Parts 20-1—20-99)
22	Community Services Administration (Parts 22-1—22-99)
23	United States Arms Control and Disarmament Agency (Parts 23-1—23-99)
24	Department of Housing and Urban Development (Parts 24-1—24-99)
25	National Science Foundation (Parts 25-1—25-99)
28	Department of Justice (Parts 28-1—28-99)
29	Department of Labor (Parts 29-1—29-99)
34	Department of Education (Parts 34-1—34-99)
44	Federal Emergency Management Agency (Parts 44-1—44-99)

SUBTITLE B—Other Provisions Relating to Public Contracts

50	Public Contracts, Department of Labor (Parts 50-201—50-99)
51	Committee for Purchase from the Blind and Other Severely Handicapped (Parts 51-1—51-99)
60	Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Parts 60-1—60-99)

Title 41—Public Contracts and Property Management—Continued

Chap.	
	SUBTITLE C—Federal Property Management Regulations System
101	Federal Property Management Regulations (Parts 101-1—101-99)
105	General Services Administration (Parts 105-1—105-999)
109	Department of Energy (Parts 109-1—109-99)
114	Department of the Interior (Parts 114-1—114-99)
115	Environmental Protection Agency (Parts 115-1—115-99)
128	Department of Justice (Parts 128-1—128-99)
	SUBTITLE D—Other Provisions Relating to Property Management [Reserved]

Title 42—Public Health

I	Public Health Service, Department of Health and Human Services (Parts 1-199)
III	Saint Elizabeths Hospital, Department of Health and Human Services (Parts 300-399)
IV	Health Care Financing Administration, Department of Health and Human Services (Parts 400-499)

Title 43—Public Lands: Interior

	SUBTITLE A—Office of the Secretary of the Interior (Parts 1-199)
	SUBTITLE B—Regulations Relating to Public Lands
I	Water and Power Resources Service, Department of the Interior (Parts 200-499)
II	Bureau of Land Management, Department of the Interior (Parts 1600-9999)

Title 44—Emergency Management and Assistance

I	Federal Emergency Management Agency (Parts 0-399)
IV	Department of Commerce and Department of Transportation (Parts 400-499)

Title 45—Public Welfare

	SUBTITLE A—Department of Health and Human Services (Parts 1-99)
	SUBTITLE B—Regulations Relating to Public Welfare
II	Office of Family Assistance (Assistance Programs), Department of Health and Human Services (Parts 200-299)
III	Office of Child Support Enforcement (Child Support Enforcement Program), Department of Health and Human Services (Parts 300-399)
IV	Office of Refugee Resettlement, Department of Health and Human Services (Parts 400-499)
V	Foreign Claims Settlement Commission of the United States, Department of Justice (Parts 500-599)
VI	National Science Foundation (Parts 600-699)

Title 45—Public Welfare—Continued

Chap.	
VII	Commission on Civil Rights (Parts 700-799)
VIII	Office of Personnel Management (Parts 800-899)
X	Community Services Administration (Parts 1000-1099)
XI	National Foundation on the Arts and the Humanities (Parts 1100-1199)
XII	ACTION (Parts 1200-1299)
XIII	Office of Human Development Services, Department of Health and Human Services (Parts 1300-1399)
XVI	Legal Services Corporation (Parts 1600-1699)
XVII	National Commission on Libraries and Information Science (Parts 1700-1799)
XVIII	Harry S. Truman Scholarship Foundation (Parts 1800-1899)
XIX	National Commission on the Observance of International Women's Year (Parts 1900-1999)
XXI	Commission of Fine Arts (Parts 2100-2199)

Title 46—Shipping

I	Coast Guard, Department of Transportation (Parts 1-199)
II	Maritime Administration, Department of Commerce (Parts 200-399)
III	Coast Guard (Great Lakes Pilotage), Department of Transportation (Parts 400-499)
IV	Federal Maritime Commission (Parts 500-599)

Title 47—Telecommunication

I	Federal Communications Commission (Parts 0-199)
II	Office of Science and Technology Policy and National Security Council (Parts 200-299)

Title 48—[Reserved]

Title 49—Transportation

	Subtitle A—Office of the Secretary of Transportation (Parts 1-99)
	Subtitle B—Other Regulations Relating to Transportation
I	Research and Special Programs Administration, Department of Transportation (Parts 100-199)
II	Federal Railroad Administration, Department of Transportation (Parts 200-299)
III	Federal Highway Administration, Department of Transportation (Parts 300-399)
IV	Coast Guard, Department of Transportation (Parts 400-499)
V	National Highway Traffic Safety Administration, Department of Transportation (Parts 500-599)
VI	Urban Mass Transportation Administration, Department of Transportation (Parts 600-699)

Title 49—Transportation—Continued

Chap.	
VIII	National Transportation Safety Board (Parts 800-899)
IX	United States Railway Association (Parts 900-999)
X	Interstate Commerce Commission (Parts 1000-1399)

Title 50—Wildlife and Fisheries

I	United States Fish and Wildlife Service, Department of the Interior (Parts 1-199)
II	National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 200-299)
III	International Regulatory Agencies (Fishing and Whaling) (Parts 300-399)
IV	Joint Regulations (United States Fish and Wildlife Service, Department of the Interior and National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce); Endangered Species Committee Regulations (Parts 400-499)
V	Marine Mammal Commission (Parts 500-599)
VI	Fishery Conservation and Management, National Oceanic and Atmospheric Administration, Department of Commerce (Parts 600-699)

CFR Index and Finding Aids

Subject/Agency Index

List of CFR Titles, Chapters, Subchapters, and Parts

Parallel Tables of Statutory Authorities and Rules

Acts Requiring Publication in the Federal Register

Alphabetical List of Agencies Appearing in the CFR

(As of June 19, 1981)

Agency	CFR Title, Subtitle or Chapter
ACTION	45, XII
Acquisition Policy, Office of	41, 5A, 5B
Administrative Committee of the Federal Register	1, I
Administrative Conference of the United States	1, III
Advisory Commission on Intergovernmental Relations	5, VII
Advisory Committee on Federal Pay	5, IV
Advisory Council on Historic Preservation	36, VIII
Agency for International Development	22, II; 41, 7
Agricultural Marketing Service	7, I, IX, X, XI; 9, II
Agricultural Research Service	7, V
Agricultural Stabilization and Conservation Service	7, VII
Agriculture Department	
Agricultural Marketing Service	7, I, IX, X, XI; 9, II
Agricultural Research Service	7, V
Agricultural Stabilization and Conservation Service	7, VII
Animal and Plant Health Inspection Service	7, III; 9, I, III
Commodity Credit Corporation	7, XIV
Contract Appeals, Board of	7, XXIV
Energy, Office of	7, XXIX
Environmental Quality, Office of	7, XXXI
Farmers Home Administration	7, XVIII
Federal Crop Insurance Corporation	7, IV
Federal Grain Inspection Service	7, VIII
Federal Procurement Regulations System	41, 4
Food and Nutrition Service	7, II
Food Safety and Quality Service	7, XXVIII; 9, III
Foreign Agricultural Service	7, XV
Foreign Economic Development Service	7, XXI
Forest Service	36, II
General Sales Manager, Office of	7, XXV
Inspector General, Office of	7, XXVI
Operations and Finance, Office of	7, XXX
Rural Electrification Administration	7, XVII
Rural Telephone Bank	7, XVI
Secretary of Agriculture, Office of	7, Subtitle A
Soil Conservation Service	7, VI
Statistical Reporting Service	7, XII
Air Force Department	32, VII
Alaska Natural Gas Transportation System, Office of the Federal Inspector	10, XV
Alcohol, Tobacco and Firearms, Bureau of	27, I
American Battle Monuments Commission	36, IV
Animal and Plant Health Inspection Service	7, III; 9, I
Appalachian Regional Commission	5, IX
Architectural and Transportation Barriers Compliance Board	36, XI
Arms Control and Disarmament Agency, U.S.	22, VI; 41, 23
Army Department	32, V
Engineers, Corps of	33, II; 36, III
Benefits Review Board	20, VII

Agency	CFR Title, Subtitle or Chapter
Bilingual Education and Minority Languages Affairs, Office of	34, V
Blind and Other Severely Handicapped, Committee for Purchase from	41, 51
Board for International Broadcasting	22, XIII
Budget, Office of Management and	5, III
Census Bureau	15, I
Central Intelligence Agency	32, XIX
Child Support Enforcement, Office of	45, III
Chrysler Corporation Loan Guarantee Board	13, IV
Civil Aeronautics Board	14, II
Civil Rights Commission	45, VII
Civil Rights, Office for (Education Department)	34, I
Claims Collection Standards, Federal	4, II
Coast Guard	33, I; 46, I, III; 49, IV
Commerce Department	
Census Bureau	15, I
Economic Analysis, Bureau of	15, VIII
Economic Development Administration	13, III
Endangered Species Committee	50, IV
Federal Procurement Regulations System	41, 13
Fishery Conservation and Management	50, VI
Industrial Economics, Bureau of	15, VI
International Trade Administration	15, III; 19, III
Maritime Administration	46, II
National Bureau of Standards	15, II
National Defense	44, IV
National Marine Fisheries Service	50, II, IV
National Oceanic and Atmospheric Administration	15, IX; 50, II, IV
National Telecommunications and Information Administration	15, XXIII
Patent and Trademark Office	37, I
Secretary of Commerce, Office of	15, Subtitle A
United States Travel Service	15, XII
Commission on the Review of the National Policy Toward Gambling	1, IV
Committee for Purchase from Blind and Other Severely Handicapped	41, 51
Commodity Credit Corporation	7, XIV
Commodity Futures Trading Commission	17, I
Community Planning and Development, Office of Assistant Secretary for	24, V, VI
Community Services Administration	41, 22; 45, X
Comptroller of the Currency	12, I
Construction Industry Collective Bargaining Commission	29, IX
Consumer Product Safety Commission	16, II
Contract Appeals, Board of	7, XXIV
Copyright Office	37, II
Copyright Royalty Tribunal	37, III
Council on Environmental Quality	40, V
Council on Wage and Price Stability	6, VII
Customs Service, United States	19, I
Defense Department	32, Subtitle A
Air Force Department	32, VII
Army Department	32, V; 33, II; 36, III
Defense Civil Preparedness Agency	32, XVIII
Engineers, Corps of	33, II; 36, III
Navy Department	32, VI
Secretary of Defense, Office of	32, I
Defense Logistics Agency	32, XII
Defense Manpower Commission	1, IV
Delaware River Basin Commission	18, III
Depository Institutions Deregulation Committee	12, XII
Drug Enforcement Administration	21, II
East-West Foreign Trade Board	15, XIII
Economic Analysis, Bureau of	15, VIII

Agency	CFR Title, Subtitle or Chapter
Economic Development Administration	13, III
Education, Department of	
Bilingual Education and Minority Languages Affairs, Office of	34, V
Civil Rights, Office for	34, I
Education for Overseas Dependents, Office of	34, VIII
Educational Research and Improvement, Office of	34, VII
Elementary and Secondary Education, Office of	34, II
Federal Procurement Regulations System	41, 34
Postsecondary Education, Office of	34, VI
Secretary of Education, Office of	34, Subtitle A
Special Education and Rehabilitative Services, Office of	34, III
Vocational and Adult Education, Office of	34, IV
Education for Overseas Dependents, Office of	34, VIII
Educational Research and Improvement, Office of	34, VII
Elementary and Secondary Education, Office of	34, II
Employee Benefits Security, Office of	29, XXV
Employee-Management Relations Commission	22, VIII
Employees' Compensation Appeals Board	20, IV
Employees Loyalty Board, International Organizations	5, V
Employment and Training Administration	20, V
Employment Standards Administration	20, VI
Endangered Species Committee	50, IV
Energy, Department of	10, II, III, X; 41, 109
Federal Energy Regulatory Commission	18, I
Federal Procurement Regulations System	41, 9
Energy, Office of, Department of Agriculture	7, XXIX
Engineers, Corps of	33, II; 36, III
Engraving and Printing, Bureau of	31, VI
Environmental Protection Agency	40, I; 41, 15, 115
Environmental Quality, Office of (Agriculture Department)	7, XXXI
Equal Employment Opportunity	41, 60
Equal Employment Opportunity Commission	29, XIV
Equal Opportunity, Office of Assistant Secretary for	24, I
Executive Office of the President	3, I
Administration, Office of	5, XV
Export-Import Bank of the United States	12, IV
Family Assistance, Office of	45, II
Farm Credit Administration	12, VI
Farmers Home Administration	7, XVIII
Federal Aviation Administration	14, I
Federal Claims Collection Standards	4, II
Federal Communications Commission	47, I
Federal Contract Compliance, Office of	41, 60
Federal Crop Insurance Corporation	7, IV
Federal Deposit Insurance Corporation	12, III
Federal Election Commission	11, I
Federal Emergency Management Agency	41, 44; 44, I
Federal Energy Regulatory Commission	18, I
Federal Financial Institutions Examination Council	12, XI
Federal Financing Bank	12 VIII
Federal Grain Inspection Service	7, VIII
Federal Highway Administration	23, I, II; 49, III
Federal Home Loan Bank Board	12, V
Federal Inspector for the Alaska Natural Gas Transportation System, Office of	10, XV
Federal Labor Relations Authority, and General Counsel of the Federal Labor Relations Authority	5, XIV; 22,XIV
Federal Law Enforcement Training Center	31, VII
Federal Maritime Commission	46, IV
Federal Mediation and Conciliation Service	29, XII
Federal Mine Safety and Health Review Commission	29, XXVII
Federal Pay, Advisory Committee on	5, IV
Federal Prison Industries	28, III
Federal Procurement Regulations	41, I
Federal Procurement Regulations System	41, Subtitle A

Agency	CFR Title, Subtitle or Chapter
Federal Property Management Regulations	41, 101
Federal Property Management Regulations System	41, Subtitle C
Federal Railroad Administration	49, II
Federal Register, Administrative Committee of	1, I
Federal Register, Office of	1, II
Federal Reserve System	12, II
Federal Services Impasses Panel	5, XIV
Federal Trade Commission	16, I
Fine Arts Commission	36, X; 45, XXI
Fiscal Service	31, II
Fish and Wildlife Service, United States	50, I, IV
Fishery Conservation and Management	50, VI
Fishing and Whaling, International Regulatory Agencies	50, III
Food and Drug Administration	21, I
Food and Nutrition Service	7, II
Food Safety and Quality Service,	7, XXVIII; 9, III
Foreign Agricultural Service	7, XV
Foreign Assets Control, Office of	31, V
Foreign Claims Settlement Commission of United States	45, V
Foreign Economic Development Service	7, XXI
Foreign Service Grievance Board	22, IX
Foreign Service Impasse Disputes Panel	22, XIV
Foreign Service Labor Relations Board	22, XIV
Foreign-Trade Zones Board	15, IV
Forest Service	36, II
General Accounting Office	4, I, II, III
General Sales Manager, Office of	7, XXV
General Services Administration	41, 5
Acquisition Policy, Office of	41, 5A, 5B
Federal Procurement Regulations System	41, 1, 5A, 5B
Federal Property Management Regulations System	41, 101, 105
Geological Survey	30, II
Government National Mortgage Association	24, III
Great Lakes Pilotage	46, III
Harry S Truman Scholarship Foundation	45, XVIII
Health and Human Services, Department of	45, Subtitle A
Child Support Enforcement, Office of	45, III
Family Assistance, Office of	45, II
Federal Procurement Regulations System	41, 3
Food and Drug Administration	21, I
Harry S Truman Scholarship Foundation	45, XVIII
Health Care Financing Administration	42, IV
Human Development Office	45, XIII
Public Health Service	42, I
Refugee Resettlement Office	45, IV
St. Elizabeths Hospital	42, III
Social Security Administration	20, III
Health Care Financing Administration	42, IV
Heritage Conservation and Recreation Service	36, XII
Housing and Urban Development, Department of	
Community Planning and Development, Office of Assistant Secretary for	24, V, VI
Equal Opportunity, Office of Assistant Secretary for	24, I
Federal Procurement Regulations System	41, 24
Government National Mortgage Association	24, III
Housing—Federal Housing Commissioner, Office of Assistant Secretary for	24, II
Housing Management, Office of Assistant Secretary for	24, IV
Interstate Land Sales Registration, Office of	24, IX
Low-Income Housing	24, VIII
Mortgage Insurance and Loan Programs Under Emergency Homeowners' Relief Act	24, XV
Neighborhoods, Voluntary Associations and Consumer Protection, Office of Assistant Secretary for	24, XX
New Community Development Corporation	24, VII
Secretary, Office of	24, Subtitle A
Solar Energy and Energy Conservation Bank	24, X

Agency	CFR Title, Subtitle or Chapter
Housing—Federal Housing Commissioner, Office of Assistant Secretary for	24, II
Housing Management, Office of Assistant Secretary for	24, IV
Human Development Services Office	45, XIII
Immigration and Naturalization Service	8, I
Indian Affairs, Bureau of	25, I; 41, 14H
Indian Arts and Crafts Board	25, II
Industrial Economics, Bureau of, Commerce Department	15, VI
Information Agency, United States	22, V; 41, 19
Information Security Oversight Office	32, XX
Inspector General, Office of, Agriculture Department	7, XXVI
Inter-American Foundation	22, X
Intergovernmental Relations, Advisory Commission on	5, VII
Interior Department	
Endangered Species Committee	50, IV
Federal Procurement Regulations System	41, 14
Federal Property Management Regulations System	41, 114
Fish and Wildlife Service, United States	50, I, IV
Geological Survey	30, II
Heritage Conservation and Recreation Service	36, XII
Indian Affairs, Bureau of	25, I; 41, 14H
Indian Arts and Crafts Board	25, II
Land Management Bureau	43, II
Mines, Bureau of	30, VI
National Park Service	36, I
Secretary of the Interior, Office of	43, Subtitle A
Surface Mining and Reclamation Appeals, Board of	30, III
Surface Mining Reclamation and Enforcement, Office of	30, VII
United States Fish and Wildlife Service	50, I, IV
Water and Power Resources Service	43, I
Water Research and Technology, Office of	41, 14R
Water Resources Research, Office of	18, IV
Internal Revenue Service	26, I
International Boundary and Water Commission, United States and Mexico	22, XI
International Communication Agency	22, V; 41, 19
International Development, Agency for	22, II; 41, 7
International Development Cooperation Agency	22, II; 41, 7
International Joint Commission, United States and Canada	22, IV
International Organizations Employees Loyalty Board	5, V
International Regulatory Agencies (Fishing and Whaling)	50, III
International Trade Administration	15, III; 19, III
International Trade Commission, United States	19, II
Interstate Commerce Commission	49, X
Interstate Land Sales Registration, Office of	24, IX
Joint Board for the Enrollment of Actuaries	20, VIII
Justice Department	28, I; 41, 128
Drug Enforcement Administration	21, II
Federal Claims Collection Standards	4, II
Federal Prison Industries	28, III
Federal Procurement Regulations System	41, 28
Foreign Claims Settlement Commission of the United States	45, V
Immigration and Naturalization Service	8, I
Prisons, Bureau of	28, V
Labor Department	
Benefits Review Board	20, VII
Employees' Compensation Appeals Board	20, IV
Employment and Training Administration	20, V
Employment Standards Administration	20, VI
Federal Contract Compliance, Office of	41, 60
Federal Procurement Regulations System	41, 29, 50
Labor-Management Relations, Office of the Assistant Secretary	29, II
Labor-Management Standards Enforcement, Office of	29, IV

Agency	CFR Title, Subtitle or Chapter
Mine Safety and Health Administration	30, I
Occupational Safety and Health Administration	29, XVII
Pension and Welfare Benefit Programs	29, XXV
Public Contracts	41, 50
Secretary of Labor, Office of	29, Subtitle A
Wage and Hour Division	29, V
Worker's Compensation Programs, Office of	20, I
Labor Management Relations, Office of Assistant Secretary	29, II
Labor-Management Standards Enforcement, Office of	29, IV
Land Management, Bureau of	43, II
Legal Services Corporation	45, XVI
Library of Congress	36, VII
Copyright Office	37, II
Low-Emission Vehicle Certification Board	40, IV
Low-Income Housing, Department of Housing and Urban Development	24, VIII
Management and Budget, Office of	5, III
Marine Mammal Commission	50, V
Maritime Administration	46, II
Merit Systems Protection Board	5, II
Micronesian Status Negotiations, Office for	32, XXVII
Mine Safety and Health Administration	30, I
Mines, Bureau of	30, VI
Miscellaneous Agencies	1, IV
Monetary Offices	31, I
Mortgage Insurance and Loan Programs Under the Emergency Homeowners' Relief Act, Department of Housing and Urban Development	24, XV
National Aeronautics and Space Administration	14, V; 41, 18
National Bureau of Standards	15, II
National Commission on Libraries and Information Science	45, XVII
National Commission on the Observance of International Women's Year	45, XIX
National Credit Union Administration	12, VII
National Foundation on the Arts and the Humanities	45, XI
National Highway Traffic Safety Administration	23, II; 49, V
National Labor Relations Board	29, I
National Marine Fisheries Service	50, II, IV
National Mediation Board	29, X
National Oceanic and Atmospheric Administration	15, IX; 50, II, VI
National Park Service	36, I
National Railroad Adjustment Board	29, III
National Science Foundation	45, VI; 41, 25
National Security Council	32, XXI
National Security Council and Office of Science and Technology Policy	47, II
National Telecommunications and Information Administration	15, XXIII
National Transportation Safety Board	49, VIII
Navajo and Hopi Indian Relocation Commission	25, IV
Navy Department	32, VI
Neighborhood Reinvestment Corporation	24, XXV
Neighborhoods, Voluntary Associations and Consumer Protection, Office of Assistant Secretary for	29, XX
New Community Development Corporation	24, VII
Nuclear Regulatory Commission	10, I; 41, 20
Occupational Safety and Health Administration	29, XVII
Occupational Safety and Health Review Commission	29, XX
Overseas Private Investment Corporation	22, VII
Panama Canal Regulations	35, I
Patent and Trademark Office	37, I
Peace Corps	22, III
Pennsylvania Avenue Development Corporation	36, IX
Pension Benefit Guaranty Corporation	29, XXVI
Pension and Welfare Benefit Programs, Department of Labor	29, XXV

Agency	CFR Title, Subtitle or Chapter
Personnel Management, Office of	5, I; 45, VIII
Postal Rate Commission	39, III
Postal Service, United States	39, I
Postsecondary Education, Office of	34, VI
President's Commission on White House Fellowships	1, IV
Presidential Documents	3
Prisons, Bureau of	28, V
Privacy Protection Study Commission	1, IV
Procurement Regulations System, Federal	41, Subtitle A
Property Management Regulations System, Federal	41, Subtitle C
Public Contracts, Department of Labor	41, 50
Public Health Service	42, I
Railroad Retirement Board	20, II
Railway Association, United States	49, IX
Refugee Resettlement Office	45, IV
Regional Action Planning Commissions	13, V
Research and Special Programs Administration	49, I
Rural Electrification Administration	7, XVII
Rural Telephone Bank	7, XVI
Saint Elizabeths Hospital	42, III
Saint Lawrence Seaway Development Corporation	33, IV
Science and Technology Policy, Office of	32, XXIV
Science and Technology Policy, Office of, and National Security Council	47, II
Secret Service	31, IV
Securities and Exchange Commission	17, II
Selective Service System	32, XVI
Small Business Administration	13, I
Smithsonian Institution	36, V
Social Security Administration	20, III
Soil Conservation Service	7, VI
Solar Energy and Energy Conservation Bank, Department of HUD	24, X
Soldiers' and Airmen's Home, United States	5, XI
Special Education and Rehabilitative Services, Office of	34, III
Special Representative for Trade Negotiations, Office of	15, XX
State Department	22, I
Federal Procurement Regulations System	41, 6
Statistical Reporting Service, Agriculture Department	7, XII
Surface Mining and Reclamation Appeals, Board of	30,III
Susquehanna River Basin Commission	18, VIII
Tennessee Valley Authority	18, XIII
Trade Representative, United States, Office of	15, XX
Transportation, Department of	
Coast Guard	33, I; 46, I, III; 49, IV
Federal Aviation Administration	14, I
Federal Highway Administration	23, I, II; 49, III
Federal Procurement Regulations System	41, 12
Federal Railroad Administration	49, II
Highway Safety Program Standards	23, II
National Defense	44, IV
National Highway Traffic Safety Administration	23, II; 49, V
Research and Science Programs Administration	49, I
Saint Lawrence Seaway Development Corporation	33, IV
Secretary, Office of	49, Subtitle A
Urban Mass Transportation Administration	49, VI
Travel Service, United States	15, XII
Treasury Department	
Administration, Assistant Secretary for	6, VI
Alcohol, Tobacco and Firearms, Bureau of	27, I
Comptroller of the Currency	12, I
Customs Service, United States	19, I
Engraving and Printing, Bureau of	31, VI
Federal Law Enforcement Training Center	31, VII
Federal Procurement Regulations System	41, 10
Fiscal Service	31, II

Agency	CFR Title, Subtitle or Chapter
Foreign Assets Control, Office of	31, V
Internal Revenue Service	26, I
Monetary Offices	31, I
Secret Service	31, IV
Secretary of the Treasury, Office of	31, Subtitle A
Truman, Harry S, Scholarship Foundation	45, XVIII
United States and Canada, International Joint Commission	22, IV
United States Arms Control and Disarmament Agency	22, VI; 41, 23
United States Customs Service	19, I
United States Fish and Wildlife Service	50, I, IV
United States International Development Cooperation Agency	22, XII
United States International Trade Commission	19, II
United States Metric Board	15, V
United States Postal Service	39, I
United States Railway Association	49, IX
United States Soldiers' and Airmen's Home	5, XI
United States Trade Representative, Office of	15, XX
United States Travel Service	15, XII
Urban Mass Transportation Administration	49, VI
Veterans Administration	38, I; 41, 8
Vice President of the United States, Office of	32, XXVIII
Vocational and Adult Education, Office of	34, IV
Wage and Hour Division	29, V
Water and Power Resources Service	43, I
Water Research and Technology, Office of	41, 14R
Water Resources Council	18, VI
Water Resources Research, Office of	18, IV
Welfare-Pension Reports, Office of Labor-Management and	29, IV
Workers' Compensation Programs, Office of	20, I

Redesignation Table

The ADP and telecommunications management regulations were restructured and redesignated at 43 FR 27190, June 23, 1978. For the convenience of the user, the following table reflects the new and old numbers.

New	Old
Part 101-32 [Reserved] See Part 101-36.	
Part 101-33	101-36.
Subpart 101-35.0 Scope of part [Reserved].	
Subpart 101-35.1 General [Reserved].	
Subpart 101-35.2	34 CFR 282.
Subpart 101-35.17	101-32.17.
Subpart 101-36.1 through .4	101-32.1 through .4.
Subpart 101-36.5	34 CFR 281.
Subpart 101-36.6 through .16	101-32.6 through .16.
Subpart 101-36.18 through .46 [Reseved].	101-32.18 through .46 [Reserved].
Subpart 101-36.47 through .49	101-32.47 through .49.
Part 101-37	101-35.

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List of CFR Sections Affected

All changes in this volume of the Code of Federal Regulations which were made by documents published in the FEDERAL REGISTER since January 1, 1973, are enumerated in the following list. Entries indicate the nature of the changes effected. Page numbers refer to FEDERAL REGISTER pages. The user should consult the entries for chapters and parts as well as sections for revisions.

For the period before January 1, 1973, see the "List of Sections CFR Affected, 1949-1963, and 1964-1972" published in three separate volumes.

1973

41 CFR

	38 FR Page
Chapter 101	
101-4 Added	3328
101-4.103-3 (c)(6) amended	15509
101-6.100—101-6.102 (Subpart 101-6.1) Removed; provisions transferred to Part 101-7	10812
101-7 Removed from Subchapter B and added to Subchapter A; heading revised (provisions derived from Part 101-6, Subpart 101-6.1)	10812
101-8 Removed from Subchapter B and added to Subchapter A; heading revised	10812
101-26.501-1 Revised	2176
101-26.501-6 (b) revised	3964
101-26.508 Revised	2176
101-26.4902-1398 Revised	3965
101-32.001 Revised	8510
101-32.202 Revised	8511
101-32.203 (b) and (c) revised	8511
101-32.203-3 (b) revised	8511
101-32.301-4 Revised	8511
101-32.301-14 (b) revised	8511
101-32.303-1 Revised	8511
101-32.304 (b) revised	8511
101-32.306 (d) revised	8511
101-32.403 (b) introductory text and (b)(3) revised	8511
101-32.403-1 Introductory text, (a), and (b) revised	8511
101-32.403-2 (a) revised	8512
101-32.403-3 (a)(1) revised	8512
101-32.404 Introductory text revised	8512

41 CFR—Continued

	38 FR Page
Chapter 101—Continued	
101-32.405 Introductory text of (a) revised	8512
101-32.407 Introductory text, (a), (b), and (c) revised	8512
101-32.409 Revised	8512
101-32.703 (a) revised	8512
101-32.900—101-32.908 (Subpart 101-32.9) revised	16223
101-32.1105 Revised	8512
101-32.1108 Revised	8512
101-32.1202 Revised	8512
101-32.1302 Revised	8513
101-32.1304-9 (a) revised	5338
101-32.1304-10 (a) revised	5338
101-32.1304-11 Added	5338
101-32.4701-2 Revised	8513
101-32.4702 Introductory text revised	8513
101-32.4801 Revised	8513
101-32.4901-120 Revised	8513
101-32.4901-122 Revised	8513
101-32.4902 (b) revised	8513
101-35.105-2 Revised	8514
101-35.111 Revised	8514
101-35.112 Removed	8514
101-35.210 Revised	8514
101-35.307-1 Revised	8514
101-35.308-9 (h) revised	8514
101-35.405 Revised	8514
101-35.603 (d) revised	8514
101-35.604 (b) revised	8514
101-35.605 Revised	8514
101-35.800—101-35.803 (Subpart 101-35.8) Added	8444
101-42.202 Revised	3046
101-43.104-4 Added	8057
101-43.104-12 Removed	8058
101-43.306 Revised	8058

41 CFR—Continued

Chapter 101—Continued

	38 FR Page
101-43.308 Revised	3046
101-43.309 Revised	8058
101-43.313-1 Revised	8058
101-43.313-3 Revised	3046
101-43.313-8 Revised	8058
101-43.313-9a (e) revised	8058
101-43.316-1 (a)(5) revised	8058
101-43.319 Revised	16063
101-43.402-4 (c) revised	3046
101-43.402-5 (d)(1) revised	8058
101-43.4900 Revised	3046
101-43.4901 (b)(2) and (c) revised	3046
101-43.4904 Amended	3046
101-43.4904-1 Amended	3046
101-43.4905 Revised	3046
101-43.4906 Amended	3046
101-43.4906-1 Amended	3046
101-43.4910 Added	16063
101-44.103 Revised	3046
101-44.201-1a Added	8058
101-44.201-12 Removed	8058
101-44.321 (a) revised	8058
101-44.322 (b) revised	8058
101-44.801 Revised	16063
101-44.4900 Revised	3047
101-44.4901 Amended	3047
101-44.4903 Amended	3047
101-45.204a Added	8058
101-45.216 Removed	8059
101-45.308 Revised	16064
101-45.309-6 Revised	8059
101-45.309-7 Heading, introductory text and introductory text of (d) revised	8059
101-45.505 (a) (1) and (2), (b), (c), and (d) revised	8059
101-45.4900 Revised	3047
101-46.202 (d)(7) revised	8059

1973–1974

(Regulations published from July 1, 1973 through June 30, 1974)

41 CFR

Chapter 101

	38 (39*) FR Page
101-4.100—4.106 (Subpart 101-4.1) *Provisions suspended indefinitely	6111
101-6.201 Revised	17973
101-6.203 Revised	17973
101-6.204-2 (a)(1) introductory text and (d) revised; (a) (3) and (4) added	17973
101-6.205-1 (b) revised	17973
101-6.205-2 Revised	17974
101-6.205-3 Revised	17974
101-6.206 Amended	17974
101-6.207 Removed	17974
101-6.208 Removed	17974
101-6.211-4 Revised	17974
101-6.212-2 Revised	17974
101-6.212-4 (a) revised	17974
101-6.213-7 Added	17975
101-6.215-1 (a) and (b) revised	17975
101-6.217 (a), (b), (c), and (q) revised	17975
101-11.1100—101-11.1103-12 (Subpart 101-11.11) Added	18016
101-11.4922 Added	18017
Subchapter D (Parts 101-17—101-24) *Revised	23196
101-17 *Revised	23196
101-18 *Revised	23202
101-18.106-1 *(p) revised	4663
101-19 *Revised	23214
101-19.109 (b)(2) revised	30000
101-19.109-7 (a) revised	30001
101-20 *Revised	23221
101-21 *Added	23232
101-25.104-2 Revised	33597
101-25.104-2 *Removed	24010
101-25.302-1 (a) and (b) revised	33597
101-25.302-6 Removed	26604
101-25.302-8 Added	33597
101-25.404 Revised	28566
101-26.201 (e) revised	28566
101-26.203-1 Introductory text revised	28566
101-26.301 Introductory text revised	28566
101-26.301-1 (a) revised	28566
101-26.301-2 Revised	28566
101-26.302 (c) revised	28566
101-26.307-3 Revised	28567
101-26.308 *Revised	24010
101-26.310 (a) (1) and (3) revised	28567
101-26.401 (b) revised	28567
101-26.401-1 Revised	28567
101-26.402-4 Revised	28567
101-26.501-1 *Introductory text revised	12989
101-26.501-6 *(b) revised	20683
101-26.501-8 *(a) revised	20683

NOTE: Symbol (*) refers to 1974 page numbers.

41 CFR—Continued

38 (39*) FR Page

Chapter 101—Continued

101-26.502-1 (b) and (c) revised 28567
101-26.505-7 *Revised........ 5765, 24010
101-26.506 *Revised........ 5765
101-26.506-1 *Revised........ 5766
101-26.506-3 *Revised........ 5766
101-26.507-1 Revised........ 31297
101-26.507-2 Revised........ 31297
101-26.507-4 Revised........ 31297
101-26.600 *Revised........ 20599
101-26.601 *Removed........ 20599
101-26.602-2 (a) revised........ 28567
101-26.602-2 *(a) revised; (d), (e), and (f) added........ 20599
101-26.603 *Revised........ 20599
101-26.604 *Removed........ 20599
101-26.605 *Added........ 20599
101-26.606 *Added........ 20599
101-26.700—101-26.703 (Subpart 101-26.7) *Added........ 20599
101-26.4902-1398 *Form revised........ 20683
101-27.102-2 Revised........ 28567
101-27.204-2 Removed........ 28567
101-27.304-1 (a) revised........ 28567
101-27.502 (a) and (d) revised........ 28568
101-27.503-1 Revised........ 28568
101-27.503-2 Introductory text revised........ 28568
101-30.603-1 Removed........ 28568
101-30.603-2 Revised........ 28568
101-30.603-3 Removed........ 28568
101-30.603-5 Revised........ 28568
101-30.603-6 Added........ 28568
101-32.403-1 Introductory text revised........ 22227
101-32.403-2 Introductory text revised........ 22227
101-32.408-1 Added........ 22227
101-32.408-4 Revised........ 34663
101-32.805 Added........ 22228
101-32.1304-3 Revised........ 22476
101-32.1304-12 Added........ 22476
101-32.1304-13 Added........ 22476
101-32.1304-14 Added........ 22476
101-32.1305-2 Added........ 22477
101-32.1400—101-32.1404 (Subpart 101-32.140 Added........ 22228
101-32.1403 *(a) revised........ 11081
101-32.1500—32.1507 (Subpart 101-32.15) *Added........ 19209
101-32.1503 *(c) corrected........ 21054
101-32.4902-2928*Added........ 19211

NOTE: Symbol (*) refers to 1974 page numbers.

41 CFR—Continued

38 (39*) FR Page

Chapter 101—Continued

101-35.109 *Revised........ 19211
101-35.202 *(g) revised........ 13264
101-35.203 *(g) revised........ 13264
*(a)(1) and (b) revised........ 19943
101-35.803 *Revised........ 2096
101-35.4900—101-35.4901 (Subpart 101-35.49) *Added........ 19943
101-39.204 Revised........ 22229
101-39.205 Revised........ 22229
101-39.207-1 Revised........ 22229
101-39.207-2 Revised........ 22229
101-39.207-3 Revised........ 22229
101-39.302 (d)(3) revised........ 22229
101-39.403-1 Revised........ 22229
101-39.403-2 (b) revised........ 22229
101-39.404-2 Revised........ 22229
101-39.404-4 (b) revised........ 22229
101-39.404-5 Revised........ 22229
101-39.603-1 Revised........ 22229
101-39.704 Revised........ 32259
101-39.706 Revised........ 22230
101-39.807(b) Introductory text revised........ 32259
101-40.109 Revised........ 28289
101-40.109-1 Added........ 28289
101-40.109-2 Added........ 28290
101-40.109-3 Added........ 28290
101-40.700 Revised........ 28678
101-40.701 Revised........ 28678
101-40.702 Revised........ 28679
101-40.702-1 Revised........ 28679
101-40.702-2 Revised........ 28679
101-40.702-3 Revised........ 28679
101-40.703-1 Revised........ 28679
101-40.703-2 (a) and (c) revised........ 28679
101-40.703-3 Revised........ 28679
101-40.704-2 Revised........ 28680
101-40.707-1 Revised........ 28680
101-40.710 Revised........ 28680
101-40.711 Revised........ 28680
101-40.711-1 Revised........ 28680
101-40.711-2 Revised........ 28680
101-40.712 Revised........ 28680
101-40.713 Revised........ 28680
101-40.4901 (b) revised........ 28681
101-40.4902 Revised........ 28681
101-40.4906-6 Added........ 28681
101-40.4906-7 Added........ 28681
101-42.103 *Removed........ 2366
101-42.103-1 *Removed........ 2366
101-43.320 *Revised........ 20061
101-43.4908 *Revised........ 20063
101-47.204-1 *(a) and (b) revised........ 22947

Title 41—Public Contracts, Property Management

1974–1975

(Regulations published July 1, 1974 through June 30, 1975)

41 CFR

	39 (40†) FR Page
Chapter 101	
101-1.109 (b) redesignated as (d); new (b) and (c) added	40952
101-1.111 Added	40952
101-1.112 Added	40952
101-4.103-5 (b) revised	28288
101-4.105 Revised	28288
101-11.800—101-11.808 (Subpart 101-11.8) Revised	†27655
101-11.900—101-11.904 (Subpart 101-11.9) Removed	†25592
101-11.900—101-11.904 (Subpart 101-11.9) Added	†25592
101-18.104-1 (1)(2) revised	†2587
101-20.116—101-20.116-6 Added	39266
101-21.606 (c) revised	†23856
101-25.103 Revised	†23856
101-25.111 Added	24505
101-25-112 Added	37379
101-25-113 Added	37379
101-25.302-4 Heading, introductory text and (a)(3) revised	26648
101-25.302-6 Added	26648
101-25.303 Revised	44454
101-25.403 Introductory text, introductory text of (a), and (b) revised; (c) added	26649
101-25.4801 Revised	30117
(b)(3) corrected	30932
101-25.4902 Revised	30117
101-25.4902-1473 Revised	30117
101-25.4902-1473-1 Added	30117
101-26.100-3 Added	†25012
101-26.203-1 (b)(3) revised	37059
101-26.203-2 (b) revised	37059
101-26.301 (b) added	†25592
101-26.401 (a) revised	35166
101-26.401-2 Revised	35166
101-26.401-3 Revised	35166
101-26.501 Revised	37379
101-26.501-4 (d) revised	37197
101-26.503 Revised	37197
101-26.602-1 (a) revised; (b) amended	33315

41 CFR—Continued

	39 (40†) FR Page
Chapter 101—Continued	
101-26.602-3 (a) and (b) revised	33316
101-26.602-4 (d) revised	33316
101-26.701 (c) revised	37059
(c) revised	†7619
101-26.702 (c) revised	37059
(c) revised	†7619
101-26.4801 Revised	37197
101-26.4901-344 Removed	37059
101-26.4902-952 Removed	37059
101-26.4902-1348 Removed	37059
101-26.4902-1348m Removed	37059
101-26.4902-1348-1 Removed	37059
101-26.4902-1348-6 Removed	37059
101-26.4902-1424 Revised	†24361
101-26.4902-1781 Revised	†24361
101-26.4902-3127 Removed	37059
101-26.4902-3128 Removed	37059
101-27.102-2 Revised	37059
101-27.303-2 (b) revised	37059
101-27.304-1 Revised	27902
101-30.101-6 Revised	37059
101-30.101-10 Added	37060
101-30.201 (b)(4) revised	37060
101-30.202 (c) revised	37060
101-30.304 Revised	37060
101-30.401-2 Revised	37060
101-30.401-3 Revised	37060
101-30.403-1 Revised	37060
101-30.403-2 Revised	37060
101-30.404 (b) revised	37060
101-30.502 (a) revised	37060
101-30.503 (b) removed; (c) redesignated as (b) and revised, (d) redesignated as (c) and revised	37060
101-30.504 Revised	37060
101-30.603 Revised	†25593
101-30.603-2 Revised	37060
101-30.604 Revised	†25593
101-30.4902-1303 Revised	37061
101-30.4902-2175 Removed	37061
101-32.301-2 Introductory text revised	39041
101-32.301-8 Revised	39042
101-32.301-10 Revised	39042
101-32.302 Revised	39042
101-32.303-2 (c) and (d) redesignated as (d) and (e), new (c) added	39042
101-32.305 Heading revised	39042
101-32.306 (c) and (e) revised	39042
101-32.308 Revised	39042
101-32.309 Revised	39042
101-32.309-1 Added	39042

NOTE: Symbol (†) refers to 1975 page numbers.

41 CFR—Continued

39 (40†) FR Page

Chapter 101—Continued

101-32.309-2 Added.................... 39042
101-32.309-3 Added.................... 39042
101-32.309-4 Added.................... 39042
101-32.403-5 Added.................... 31635
101-32.404 Introductory text revised.................... 31635
101-32.1304-15—101.32.1304-16 Added.................... †7096
101-32.1305-3 Added.................... †7097
101-32.4702 (a) and (c) revised.... 39043
(c) corrected.................... 40294
101-35.103 (c) added.................... 24649
101-35.310 Added.................... 24649
101-38.1001 Revised.................... 27798
101-38.1003 Revised.................... 27798
101-38.1004 Revised.................... 27798
101-39.600 Revised............ 36966, 37380
101-39.601 Revised............ 36966, 37380
101-39.603-1 Revised.................... 30117
101-39.805 Revised.................... †6503
101-42.101 Amended.................... 44753
101-42.102-1 (b) revised.................... 44753
101-42.102-3 Revised.................... 44753
101-42.203 (b) revised.................... 44753
101-43.102 Revised.................... 24649
101-43.303-1 (b) revised.................... 44753
101-43.309 Revised.................... 44753
101-43.311-2 Revised.................... 44753
101-43.312 (g) revised.................... †23856
101-43.313-3 Revised.................... 44754
101-43.313-6 Removed.................... †23857
101-43.315-2 (d) revised.................... 44754
101-43.315-4 (c) revised.................... 44754
101-43.316-1 (a)(1) revised.................... 44754
101-43.319 (a) revised.................... 24649
101-43.402-5 (d)(1) revised.................... 44754
101-43.504 (c) revised.................... 44754
101-43.505 (a) revised.................... 44754
101-43.4901 (b)(2) revised.................... 44754
101-43.4902-1 Form amended..... 44754
101-43.4903 Revised.................... 44754
101-43.4904 Amended.................... 44755
101-43.4904-1 Amended.................... 44755
101-43.4907 Revised.................... 24649
101-44.302 (c) revised.................... 44755
101-44.313 (a), (b), and (c)(1) revised.................... 44755
101-44.318 Revised.................... 44755
101-44.601-2 Revised.................... 44755
101-44.601-3 Revised.................... 44755
101-44.601-5 Revised.................... 44755
101-44.801 (a) revised.................... 24649
101-45.303 (b) revised.................... 44756
101-45.304-8 (a) and (d)(1) revised.................... 44756
101-45.308 (a) revised.................... 24650
101-45.309-6 (a) (3) and (4), (b) and introductory text of (c) revised.................... 44756
101-45.505 (b) and (c) revised...... 44756
101-45.603 Revised.................... 44756
101-46.407 Revised.................... 44756
101-47.201-1 (a) revised.................... †12078
101-47.201-2 (a)(1) revised.................... †12078
101-47.202-2 (b)(8) added.................... †22256
101-47.203-1 Revised.................... †12078
101-47.203-2 Revised.................... †12078
101-47.203-5 (b) revised.................... †22256
101-47.203-7 (a), (c), and (d) revised.................... †12078
101-47.301-4 Revised.................... †12078
101-47.301-5 Revised.................... †12078
101-47.303-2 Introductory text and (b) (1), (2), (3), and (4) revised.................... †22256
101-47.304-9 (a)(5)(iii) removed; (b) revised.................... †22256
101-47.306-2 Revised.................... †12078
101-47.308-3 Revised.................... †22257
101-47.308-4 (k) and (l) revised.................... †22257
101-47.308-7 (o) and (p) revised.................... † 22257
101-47.312 (b) removed.................... † 12078
101-47.402-2 (a) revised.................... † 12078
101-47.700 Revised.................... †12079
101-47.800 Revised.................... †12079
101-47.801 (b)(1)(iii), (2), (4), (6), (7), (8), (10), (13), and (15) revised.................... † 12079
101-47.802 (a) and (b) amended.................... † 12079
101-47.4900 Revised.................... †12080
101-47.4903 Revised.................... †12080
101-47.4904 Revised.................... †12080
101-47.4904-1 Heading revised; (c) amended; (j) added.................... † 22258
101-47.4905 Revised.................... †22258
101-47.4906 Amended.................... † 22259
101-47.4907 Revised.................... †12080
101-47.4908 Removed.................... † 12080
101-47.4909 Removed.................... † 12080
101-47.4910 Revised.................... †12080
101-47.4912 Added.................... † 22260
101-47.4914 Revised.................... †12080

NOTE: Symbol (†) refers to 1975 page numbers.

1975–1976

(Regulations published July 1, 1975 through June 30, 1976)

41 CFR

40 (41Δ) FR Page

Chapter 101

101-4.100—4.106 (Subpart 101-4.1) Reinstated.......................... 48179
101-6.300—1016.302 (Subpart 101-6.3) Removed.................. 49328
101-11.102-7 Revised....................Δ3739
101-11.207—101-11.207-4 (Subpart 101-11.2) Revised............ Δ8772
101-11.210-1 Revised..................Δ13353
101-11.210-2 Revised..................Δ13353
101-11.210-4 Revised..................Δ13353
101-11.305-2 Revised..................Δ13353
101-11.410-4 Revised..................Δ14515
101-11.441-3 (f) and (g) revised; (h) added................................ Δ13353
101-11.411-5 (b)(4) added..........Δ13353
101-11.411-7 Revised..................Δ14516
101-11.411-9 Added.................... Δ13353
101-11.502 (a) and (c) through (e) revised; (f) and (g) added..Δ14515
101-11.503-1 (a)(1) revised........ Δ14515
101-11.503-2 (a) revised............ Δ14515
101-11.504-2 Revised..................Δ14515
101-11.701-2 Revised....................Δ3739
101-11.701-4 Revised....................Δ3739
101-11.701-10 Revised......Δ3739, 14516
101-11.701-10 Revised......Δ3739, 14516
101-11.800—101-11.808 (Subpart 101-11.8) Revised.................. 27656
101-11.806-8 Added; correction..29722
101-11.1100—101-11.1109 (Subpart 101-11.11) Revised.........Δ8772
101-11.1200—101-11.1205 (Subpart 101-11.12) Added........... 48134
101-11.1300—101-11.1303 (Subpart 101-11.13) Added......... Δ14516
101-11.4901 Revised..................... Δ3739
101-11.4917 Revised..................... Δ3739
101-11.4918 Revised..................... Δ3739
101-11.4920 Revised.............. 27658
101-11.4930-248—101-11.4930-250 Added... 48135
101-17.101-1c Added.................. Δ7944
101-18.100 (g) added....................Δ7944
101-20.116-3 (c) amended...........Δ6772
101-20.116-6 Revised....................Δ6772
101-20.117—101-20.117-4 Added...Δ7944
101-20.306 Revised....................... Δ4264

Note: Symbol (Δ) refers to 1976 page numbers.

41 CFR—Continued

40 (41Δ) FR Page

Chapter 101—Continued

101-25.100 Added.......................... 29818
101-25.403 (a) amended; (b) revised..Δ25889
101-25.4801 (a) revised...............Δ14865
101-25.4902 (b) revised...............Δ14865
101-25.4902-1473 Revised..........Δ14865
101-26.000 Revised........................41093
101-26.100-1 Revised....................41093
101-26.100-2 Introductory text revised.. Δ6772
101-26.102-3 Introductory text revised.. 41093
101-26.104 Heading, (b) and (c) revised.. 41093
101-26.105 Revised........................41094
101-26.106 Revised........................41094
101-26.201 Introductory text revised..41094
101-26.203-1 (a) and (b)(1), (2) and (3) revised..........................41095
101-26.203-2 (a)(1) and (2) and (b) revised................................ 41095
101-26.205-2 Revised....................41095
101-26.206 Revised........................41095
101-26.312 Removed...................Δ14517
101-26.401 (c) added..................... 31223
(c) effective date corrected.........33035
(a) Revised..................................Δ6773
101-26.401-1 Revised....................Δ6773
101-26.401-4 (a) and (b) revised..Δ6773
101-26.401-5 Heading, (a), (b), and (c) introduction revised... Δ6773
101-26.402-2 Revised....................Δ6773
101-26.402-3 Revised....................Δ6773
101-26.402-5 (b) revised.............. Δ6774
101-26.403-2 (a)(1) and (b)(1) revised; (b)(3) added.................... 31223
101-26.406-1 (c) added; eff. 10-1-76...Δ17732
101-26.406-2 Removed; eff. 10-1-76...Δ17732
101-26.406-3 Removed; eff. 10-1-76...Δ17732
101-26.406-4 Removed; eff. 10-1-76...Δ17732
101-26.406-5 (a)(3) and (b)(4) added; (b)(1) revised; eff. 10-1-76...Δ17732
101-26.408-1 (a) revised.............. Δ6774
101-26.408-4 (a) revised..... .... Δ6774
101-26.408-5 Revised....................Δ6774
101-26.409 Removed.....................Δ6774
101-26.410 Removed.....................Δ6774

41 CFR—Continued

40 (41Δ) FR Page

Chapter 101—Continued

101-26.501-1 Introductory text and (b) revised....57216
101-26.501-3 Introductory text revised....57217
101-26.501-6 (c) suspended until 8-31-76....Δ3294
101-26.501-8 (b) revised....57217
101-26.4902-457 Form revised....31224
101-26.4902-1718 Suspended until 8-31-76....Δ3294
101-26.4904-416 Heading and form revised....31224
101-27.102 Revised....Δ3858
101-27.102-2 Revised....Δ3858
101-27.102-3 (a) and (b) revised....Δ3858
101-27.103 Amended....Δ3858
101-27.204 Revised....59595
101-27.204-1 Removed....59595
101-27.204-2 Removed....59595
101-27.205 Revised....59595
101-27.205-1—101-27.205-3 Removed....59595
101-27.206—101-27.206-3 Revised....59595
101-27.207 Revised....59596
101-27.207-1—101-27.207-3 Added....59596
101-27.208 Revised....59596
101-27.301 Removed....Δ3858
101-27.303 Revised....Δ3858
101-27.303-2 Amended....Δ3858
101-27.304 Revised....Δ3858
101-27.401 Removed....Δ3858
101-27.403 Revised....Δ3859
101-27.503 Revised....Δ3859
101-27.504 Revised....Δ3859
101-27.505 Revised....Δ3859
101-30.000 Revised....Δ11308
101-30.101-1 Redesignated as 101-30.101-5; new 101-30.101-1 redesignated from 101-30.101-3 and revised....Δ11308
101-30.101-2 Redesignated as 101-30.101-6; new 101-30.101-2 redesignated from 101-30.101-7 and revised....Δ11308
101-30.101-3 Redesignated as 101-30.101-1; new 101-30.101-3 redesignated from 101-30.101-10 and revised....Δ11308

Note: Symbol (Δ) refers to 1976 page numbers.

41 CFR—Continued

40 (41Δ) FR Page

Chapter 101—Continued

101-30.101-4 Redesignated as 101-30.101-8; new 101-30.101-4 redesignated from 101-30.101-6 and revised....Δ11308
101-30.101-5 Redesignated as 101-30.101-7; new 101-30.101-5 redesignated from 101-30.101-1 and revised....Δ11308
101-30.101-6 Redesignated as 101-30.101-4; new 101-30.101-6 redesignated from 101-30.101-2 and revised....Δ11308
101-30.101-7 Redesignated as 101-30.101-2; new 101-30.101-7 redesignated from 101-30.101-5 and revised....Δ11308
101-30.101-8 Redesignated as 101-30.101-10; new 101-30.101-8 redesignated from 101-30.101-4 and revised....Δ11308
101-30.101-10 Redesignated as 101-30.101-3; new 101-30.101-10 redesignated from 101-30.101-8 and revised....Δ11308
101-30.101-11 Added....Δ11308
101-30.101-12 Added....Δ11308
101-30.101-13 Added....Δ11308
101-30.101-14 Added....Δ11308
101-30.101-15 Added....Δ11308
101-30.101-16 Added....Δ11308
101-30.102 (b) and (c) revised....Δ11308
101-30.103-1 (a) and (c) revised....Δ11309
101-30.201 (b) (1) through (4) revised; (b)(5) added....Δ11309
101-30.202 (a)(1) and (b)(2) revised....Δ11309
101-30.301 Revised....Δ11309
101-30.302 (c) revised....Δ11309
101-30.303 Revised....Δ11309
101-30.401 Revised....Δ11309
101-30.401-2 Revised....Δ11309
101-30.403-2 Revised....Δ11309
101-30.404 Introductory text revised....Δ11309
101-30.501 Revised....Δ11309
101-30.502 Removed....Δ11309
101-30.503 Introductory text, (a) and (b) revised....Δ11310
101-30.504 Revised....Δ11310
101-30.505 Revised....Δ11310
101-30.4902 (b) revised....Δ11310
101-32.201 (d) added....48135
(b)(1) revised....50034

41 CFR—Continued

Chapter 101—Continued	40 (41Δ) FR Page
101-32.203-1 Revised	50034
101-32.203-2 Revised	50034
101-32.203-3 (a)(3) and (b) revised	50034
101-32.203-4 Added	50034
101-32.301-9 Revised	49329
101-32.301-9a Added	49329
101-32.301-17 Added	49329
101-32.303-1 Revised	49329
101-32.304 (b) revised	49329
101-32.306 (a), (d), and (j) revised; (h-1) added	49329
101-32.307 (a) revised	49329
101-32.309-2 Revised	49330
101-32.309-3 Revised	49330
101-32.309-4 (a) revised	49330
101-32.310 Added	49330
101-32.404 (a), (b), (c), and note revised	50034
101-32.1205 (b) revised	Δ16801
101-32.1207 Added	Δ16801
101-32.1304-17 Added	37039
101-32.1304-18 Added	37040
101-32.1305-1 Heading and text revised	Δ14517
101-32.1305-1a Added	53013
(h) amended	Δ23204
101-32.1600—101-32.1613 (Subpart 101-32.16) Added	Δ8169
101-32.1700—101-32.1706 (Subpart 101-32.17) Added	Δ14732
101-32.4701 Introductory text revised	48135
101-32.4701-3 Added	48135
101-32.4702 Introductory text, (a) and (c) revised	49330
101-32.4801 Revised	33454
101-32.4802 Revised	33454
101-32.4901-120 Amended	49331
101-32.4901-122 Amended	49331
101-32.4902-2068 Revised	50035
101-32.4902-2068A Revised	50035
101-35.102 (d) added	Δ16802
101-35.103 (d) added	42358
101-35.112 Added	Δ22938
101-35.200 Added	Δ22938
101-35.201 Revised	Δ16802
101-35.201-3 Revised	Δ16802
101-35.201-4 Added	Δ16802
101-35.201-5 Added	Δ16802
101-35.202 (a)(11) added	31224
(c) revised; (d) removed	Δ16802

41 CFR—Continued

Chapter 101—Continued	40 (41Δ) FR Page
101-35.203 (a)(3) added	31224
Introductory text revised	39866
(g) note added	42358
(c) revised; (d) removed	Δ16803
101-35.204-2 Introductory text revised	39866
101-35.4902 Added	Δ16803
101-38.001-1 Revised	42358
101-38.001-2 Introductory text revised	42358
101-38.001-9 Revised	42358
101-38.001-10 Revised	42358
101-38.001-13 Revised	42358
101-38.001-14 Revised	42358
101-38.100-1 Revised	42358
101-38.100-2 Revised	42358
101-38.102-1 Revised	42358
101-38.201-1 Revised	42358
101-38.201-2 Revised	42358
101-38.202 Revised	42358
101-38.301—101-38.305-4 (Subpart 101-38.3) Heading revised	42359
101-38.301 Revised	42359
101-38.302 Revised	42359
101-38.303-1 Revised	42359
101-38.303-2 (a), (b), and (c)(2) and (4) revised	42359
101-38.304-1 Revised	42359
101-38.305-4 Revised	42359
101-38.402 Revised	42359
101-38.403 Introductory text and (a) revised	42359
101-38.602 (a), (b), (f), (h), (k), and (l) revised	42360
Revised	Δ22938
101-38.603 (a)(3) revised	42360
101-38.605 Revised	42360
101-38.607 Revised	42360
101-38.701 (d) revised	42360
101-38.800—101-38.802 (Subpart 101-38.8) Added	42360
101-38.1101 Revised	42360
101-38.1104 Revised	42360
101-38.1200—101-38.1203 (Subpart 101-38.12) Added; eff. 10-1-76	Δ17733
101-38.4900 (b) revised	42360
101-38.4903 Revised	42361
101-39.503-6 Revised	49331
101-39.503-7 Introductory text revised	49331
101-39.702 (b) revised	49331
101-39.706 Revised	49331
101-40.101 Revised	49331

NOTE: Symbol (Δ) refers to 1976 page numbers.

41 CFR—Continued

Chapter 101—Continued	40 (41Δ) FR Page
101-40.102 Introductory text revised	49331
101-40.109-2 (b) revised	49331
101-40.111 (a) revised	49331
101-40.301 Revised	49331
101-40.305-2 Revised	49331
101-40.305-3 (a) revised	49332
101-40.305-5 Revised	49332
101-40.306-3 Revised	49332
101-40.307 Revised	49332
101-40.702-3 (b) revised	49332
101-40.4906-1 Amended	49332
101-41 Added	47942
101-41.210-1 Heading corrected	49778
101-41.303-4 Corrected	49778
101-41.309-2 (b)(1) corrected	49778
101-42.000 Revised	Δ22268
101-42.001 Revised	Δ22268
101-42.001-1 Revised	Δ22268
101-42.001-2 Revised	Δ22268
101-42.001-3 Revised	Δ22268
101-42.001-4 Revised	Δ22268
101-42.300—101-42.303-2 (Subpart 101-42.3) Revised	31225
101-42.4901 Revised	31226
101-42.4902 Revised	31226
101-43.000 Revised	Δ22269
101-43.001—101-43.001-24 Added	Δ22269
101-43.104—101-43.104-21 Removed	Δ22270
101-43.302 (a) revised	42361
101-43.306 Revised	Δ22270
101-43.308 Revised	42361
101-43.313-7 Revised	Δ22270
101-43.313-9 (b), (f) and (j) revised	Δ22270
101-43.313-9a Redesignated as 101-43.313-10 and revised	Δ22270
101-43.313-10 Redesignated as 101-43.313-11; new 101-43.313-10 redesignated from 101-43.313-9a and revised	Δ22271
101-43.313-11 Redesignated from 101-43.313-10 and revised	Δ22271
101-43.315-5 (a) introductory text, (2) and (3) and (b) revised	42361
101-43.316-1 (a)(4) revised	Δ22271
101-43.318-2 Revised	Δ22271
101-43.400 Revised	Δ22271
101-43.402-5 (d)(1) revised	Δ22271

NOTE: Symbol (Δ) refers to 1976 page numbers.

41 CFR—Continued

Chapter 101—Continued	40 (41Δ) FR Page
101-43.402-6 (a), (b) and (c) revised	42361
101-44.000 Revised	Δ22272
101-44.001—101-44.001-16 Added	Δ22272
101-44.103 Revised	42361
101-44.104-3 Revised	42362
101-44.201—101-44.201-19 (Subpart 101-44.2) Removed	Δ22272
101-44.304 (a) revised; (b) amended	Δ22272
101-44.319 (b) revised	Δ22272
101-44.321 (a) revised	Δ22273
101-44.600 Revised	Δ22273
101-44.706 Removed	Δ22273
101-45.000 Revised	Δ22273
101-45.001—101-45.001-7 Added	Δ22273
101-45.200—101-45.219 (Subpart 101-45.2) removed	Δ22273
101-45.309-2 (a) and (b) revised; (c) added	Δ5097
101-45.309-6 Introductory text revised	Δ22273
101-45.309-9 Revised	33216
101-45.309-10 Added	Δ5097
101-45.400 Revised	Δ22273
101-45.804 (b) (1) and (2) revised	59439
101-46.001 Added	Δ22274
101-46.001-1 Added	Δ22274
101-46.101 (Subpart 101-46.1) removed	Δ22274
101-46.202 (d)(6) revised	Δ22274
101-46.407 Revised	Δ22274
101-47.304-12 (c) and (d) revised	Δ22354
101-47.4911 Revised	Δ22354

1976–1977

(Regulations published July 1, 1976 through June 30, 1977)

41 CFR

Chapter 101	41 (42*) FR Page
101-1.103 Revised	*12
101-2.104 (c) revised	56320
101-5.201 Revised	46296
101-5.202 Introductory text revised	46296
101-5.203-1(a) Revised	46296
101-5.203-4 Revised	46296
101-5.203-6 Revised	46296
101-5.203-7 Revised	46296

NOTE: Symbol (*) refers to 1977 page numbers.

41 CFR—Continued

Chapter 101—Continued	41 (42*) FR Page
101-5.205-2 (a) and (b) revised	46296
101-5.205-3 (a) revised	46296
101-5.4901—101-5.4903 Removed	46297
101-6.100—101-6.112-1 (Subpart 101-6.1) redesignated from 34 Part 233 and revised	*14098
101-11.406-7 Revised	46297
101-11.1203 (a) (1) and (2), (b), and (c) revised	48737
101-11.1204 Removed	48737
101-11.1205 Revised	48737
101-11.4930-248 Revised	48737
101-11.4930-248-A Added	48737
101-11.4930-249 Revised	48737
101-11.4930-249-A Added	48737
101-11.4930-250 Revised	48737
101-17.204 (a) revised	*16778
101-18.101 (c) revised	*9666
101-18.102 (a) amended	36206
101-18.105 (d) added	52458
101-19.001 Revised	*16779
101-19.100 (a)(1), (b), (c)(1) through (5), (f)(2) through (4) and (g) revised; (c)(6) and (h) added	*16779
101-20.113 (b), (c) (1) and (3) and (d) revised	34629
101-25.104 Heading, introductory text and (a) and (b) introductory texts revised	*1031
101-25.104-1 Revised	*1031
101-25.107 (d) revised	*1031
101-25.110-1 Removed	*1031
101-25.302 (a) revised	*1031
101-25.302-7 Revised	*1031
101-25.402 Revised	*1031
101-25.404-1 Revised	*1031
101-25.502 (b) revised	*1031
101-25.503 Heading, introductory text and (a) revised	*1031
101-25.504 (b) revised	*1031
101-25.4801 (c) revised	*22558
101-25.4902-1473-1 (c) amended	37525
(d) revised	*22558
101-26.202 Revised	34630
101-26.307 Revised	56320
101-26.307-1—101-26.307-3 Removed	56320
101-26.401-4 (b) and (c) revised	34630
101-26.407—101-26.407-2 Revised	34630
101-26.407-3 Heading and (a) revised	34630

NOTE: Symbol (*) refers to 1977 page numbers.

41 CFR—Continued

Chapter 101—Continued	41 (42*) FR Page
101-26.408-2 Revised	34630
101-26.408-4 (c) added	*1032
101-26.501 (b) and (c) revised	34631
101-26.501-3 Introductory text and (c) through (e) revised	34631
101-26.501-6 Revised	34631
101-26.501-8 (a) revised	34631
101-26.502-1 (a) and (c) revised	34632
101-26.503-1 Revised	34632
101-26.503-2 (b) and (d) revised	34632
101-26.505-3 Revised	34632
101-26.506 Revised	42953
101-26.506-1 Revised	42953
101-26.506-3 Revised	42953
101-26.507—101-26.507-4 Revised	34632
101-26.508-1 Revised	34633
101-26.508-2 (a) and (b) revised	34633
101-26.509-1 Revised	34633
101-26.509-2 (a) and (b) revised	34633
101-26.800—101-26.803-2 (Subpart 101-26.8) added	56320
101-26.4801 Revised	43722
101-26.4901 (b) revised	34633
101-26.4902 (b) revised	34633
101-26.4902-1424 Revised	38505
101-26.4902-1718 Removed	34633
101-26.4902-1781 Revised	34633
101-26.4902-6317 Removed	34633
101-28.100—101-28.101-22 (Subpart 101-28.1) removed	*2317
101-28.201 (b) revised	*2317
101-28.202 Revised	*2317
101-28.202-1—101.202-4 Added	*2317
101-28.203 Revised	*2317
101-28.203-1 Revised	*2317
101-28.203-2 Removed	*2317
101-28.203-3 Removed	*2317
101-28.203-4 Revised	*2317
101-28.204—101-28.208 Removed	*2317
101-28.300—101-28.308 (Subpart 101-28.3) revised	*2317
101-29.000 Revised	*13828
101-29.101 Revised	*13828
101-29.102 Revised	*13828
101-29.201-1—101-29.201-3 Revised	*13828

41 CFR—Continued

41 (42*) FR Page

Chapter 101—Continued

101-29.202 Revised....................*13828
101-29.204 (a) introductory text, (2) and (4) and (b) introductory text revised....................*13828
101-29.205 Revised....................*13828
101-29.205-1 Introductory text, (a) and (d) revised....................*13829
101-29.207 Revised....................*13829
101-29.208 Revised....................*13829
101-29.301-2 Revised....................*13829
101-29.302 Revised....................*13829
101-32.000 Revised....................43546
101-32.200—101-32.203-4 (Subpart 101-32.2) supplement; expired 1-31-77....................34635
101-32.303-2 (a)(1) revised....................42954
101-32.306 (a) revised....................42954
101-32.309-4 (a) revised....................42954
101-32.400—101-32.409 (Subpart 101-32.4) revised....................43546
101-32.403-1 Revised....................*17120
101-32.403-2 Revised....................*17120
101-32.1302 Revised....................*9667
101-32.1307 Revised....................*9667
101-32.1307-1 Added....................*9667
101-32.1700 Revised....................*17120
101-32.1706 (a) introductory text and (b)(5) revised; (b)(4) amended; (b)(6) added....................48519
(a) revised....................*17120
101-34.002 Revised....................*11836
101-34.003 Revised....................*11836
101-34.101 Revised....................*11836
101-34.102—101-34.105 revised....*11837
101-35.202 (a)(11) revised....................46297
101-35.203 (f) revised....................46297
101-35.309—101-35.309-2 Revised....................36207
101-35.502 Revised....................36207
101-35.505 Removed....................36207
101-38.001-8 Revised....................*1477
101-38.001-9 Revised....................*1477
101-38.001-16 Added....................*1477
101-38.001-17 Added....................*1477
101-38.100-1 Revised....................*19328
101-38.100-2 Revised....................*19328
110-38.102—101-38.102-2 Revised....................*19328
101-38.1000—101-38.1005 (Subpart 101-38.10) revised....................*31454
101-38.1300—101-38.1305-3 (Subpart 101-38.13) redesignated from 34 CFR Part 232 Appendix A and revised....................*1477
101-38.4901-1 Added....................*19328

Note: Symbol (*) refers to 1977 page numbers.

41 CFR—Continued

41 (42*) FR Page

Chapter 101—Continued

101-40.109-1 (a) revised....................54762
101-40.109-2 Revised....................54762
101-40.700 Revised....................*25858
101-40.701 Introductory text, (a), (c), and (d) revised....................*24859
101-40.702 Heading revised....................*25859
101-40.702-1 (a) revised....................*25859
101-40.702-2 Revised....................*25859
101-40.702-3 Revised....................*25859
101-40.703-1 Removed....................*25860
101-40.703-2 Revised....................*25860
101-40.703-3 Revised....................*25860
101-40.704-2 Revised....................*25860
101-40.705 Revised....................*25860
101-40.707-1 Revised....................*25861
101-40.707-2 Introductory text, (a) and (b) introductory text revised....................*25861
101-40.709 (b) revised....................*25861
101-40.710 Revised....................*25861
101-40.711-1 Revised....................*25861
101-40.711-2 (b) revised....................*25861
101-40.712 Revised....................*25861
101-40.713 Revised....................*25861
101-40.4906-5 Amended....................*25862
101-43.313-12 Added....................*24052
101-44.324 Added....................*24052
101-44.502-3 Added....................*24052
101-45.309-11 Added....................*24052
101-45.803 (a) (1) through (3), (b), and (c) revised; (a)(4) added....................*31455
101-45.4926 Added....................*24053
101-46.404 Introductory text, (a) (1) and (3) revised....................38167
101-47.4911 Revised....................*31455

1977–1978

(Regulations published July 1, 1977 through June 30, 1978)

41 CFR

42 (43†) FR Page

Chapter 101

101-2.101 (b) revised; (c) added...55811
(c) revised....................†21882
101-2.102 (a) and (c) revised; (d) added....................55811
101-2.103 Revised....................55812
(a) and (b) revised....................†21882
101-2.104 Revised....................55812
Introductory text and (b)(2) revised; (b)(4) removed....................†21883
101-2.105 Revised....................55812

Note: Symbol (†) refers to 1978 page numbers.

41 CFR—Continued

Chapter 101—Continued	42 (43†) FR Page
101-2.106 Added	55812
(b) and (e) revised	†21883
101-2.107 Added	55813
101-2.4902 Revised	55813
101-2.4902-789 Revised	55813
101-2.4903 Added	55813
101-2.4903-7306 Added	55813
101-5.100 Revised	35853
101-5.104-7 Revised	35853
101-5.203-5 Revised	35853
101-7 Temporary regulation	†10442
101-11.101-4 Revised	56120
101-11.101-5 Added	56120
101-11.103-1 Revised	56120
101-11.103-2 (a) through (c) revised	56121
101-11.103-4 Added	56121
101-11.104 Added	56121
101-11.411—101-11.411-12 Revised	57314
101-11.504-3 Revised	†4998
101-11.900 Revised	43082
101-11.901 Revised	43082
101-11.902 Revised	43082
101-11.903 (a) revised	43082
101-11.904 (a) (2), (3), (4), (5), and (c) revised	43083
101-17.104—101-17.104-4 Added	57462
101-19.600 Revised	†16479
101-19.601 Revised	†16479
101-19.602 (a) revised; (c) added	†16479
101-19.603 Revised	†16479
101-19.604 (a) introductory text, (c) and (d) revised; (e) added	†16479
101-19.606 Revised	†16480
101-20.100 Revised	56121
101-20.111—101-20.111-3 Revised	56122
101-20.117-2 (a)(2) amended	†8139
101-21.300 Revised	62485
101-21.300-1 Added	62485
101-21.604 (a) and (b) revised	†11820
101-25—101-34 (Subchapter E) temporary reg. E-49	15366
101-25.112 Added	†8800
101-25.302-1 Revised	36458
(a) revised	†18673
101-25.302-5 Revised	†18673
101-25.302-8 Revised	36458
101-25.304-2 Revised	†16480

41 CFR—Continued

Chapter 101—Continued	42 (43†) FR Page
101-26.100-3 (b) introductory text revised	58748
101-26.105 (a) and note revised	†22210
101-26.200 Revised	†19852
101-26.201 Revised	†19852
101-26.202 Revised	†19853
101-26.203 Removed	†19853
101-26.203-1 Removed	†19853
101-26.203-2 Removed	†19853
101-26.205 Removed	†19853
101-26.205-1 Removed	†19853
101-26.205-2 Removed	†19853
101-26.206 Revised	†19853
101-26.302 Introductory text and (c) revised	62485
101-26.303 Revised	†22210
101-26.304 Revised	†22210
101-26.305 (a) and (c) revised	58748
Corrected	61597
101-26.306 Revised	†22211
101-26.308 Revised	†22211
101-26.310 Introductory text, (a) introductory text, (1) and (4) through (7), and (b) revised	58748
101-26.311 (b) revised	58748
101-26.401 (b) revised; (c) removed	†24533
101-26.402-4 Revised	†24533
101-26.402-5 (b) revised	†24533
101-26.403-2 (b)(3) revised	58748
101-26.405 Revised	62485
101-26.406-1 (a) revised	†22211
101-26.406-5 Revised	†22211
101-26.407-2 Revised	†22211
101-26.408-3 (a), (b) introductory text, (1), (5), and (6)(i) revised	†22211
101-26.505 Revised	†22211
101-26.505-7 Revised	†22211
101-26.506-2 (b) revised	†22211
101-26.509-1 Revised	†22211
101-26.509-2 (a) and (b) revised	†22212
101-26.600 Revised	58748
101-26.602 Revised	58748
101-26.602-2 (a), (b) introductory text and (2) revised; (d) through (f) removed	58748
101-26.602-3 (a) introductory text and (2) and (b) through (g) revised; (h) added	58749
101-26.602-4 (d) revised	58749
101-26.603 Revised	58749

NOTE: Symbol (†) refers to 1978 page numbers.

41 CFR—Continued

Chapter 101—Continued

	42 (43†) FR Page
101-26.603-1 Removed	58750
101-26.603-2 Removed	58750
101-26.603-3 Removed	58750
101-26.603-4 Removed	58750
101-26.605 Revised	58750
101-26.606 Revised	58750
101-26.607 Added	58750
101-26.607-1 Added	58750
101-26.607-2 Added	58750
101-26.607-3 Added	58750
101-26.4902-2891 Added	†24533
101-27.207-3 Revised	61861
101-30.201 (a) revised	36254
101-30.300 Revised	36255
101-30.302 (e) revised	36255
101-30.303 Revised	36255
(b) revised	†18673
101-30.400—101-30.401-2 Revised	36255
101-30.401-3 Removed	36255
101-30.503 (a), (b), and (c) revised; (d) added	36255
(d) revised	†18673
101-30.504 Revised	36256
101-30.603 (b) and (c) revised	36256
Revised	†24533
101-30.604 Revised	†24533
101-30.700—101-30.705 (Subpart 101-30.7) Added	†4999
101-30.4901 Revised	†18674
101-30.4901-1303 Added	†18674
101-30.4902 Removed	†18674
101-30.4902-1303 Removed	†18674
101-32 Redesignated as Part 101-36 in part	†27191
101-32.203-3 Redesignated as 101-36.203-3; (b) amended	†27191
101-32.400-2 Redesignated as 101-36.400-2; amended	†27191
101-32.404 Redesignated as 101-36.404; (a) and (b) amended	†27191
101-32.407 Redesignated as 101-36.407; (a) amended	†27191
101-32.1105 redesignated as 101-36.1105; amended	†27191
101-32.1202 Redesignated as 101-36.1202; amended	†27191
101-32.1613 Redesignated as 101-36.1613 and amended	†27191

41 CFR—Continued

Chapter 101—Continued

	42 (43†) FR Page
101-32.1304-19 Added	56741
101-32.1700—101-32.1706 (Subpart 101-32.17) Redesignated as 101-35.1700—101-35.1706 (Subpart 101-35.17)	†27191
101-32.4701-2 Redesignated as 101-36.4701-2; amended	†27191
101-32.4702 (c) revised	63642
101-32.4901-120 Note added	63643
101-33 Redesignated from 101-36	†27191
101-33.003 Amended	†27191
101-35—101-37 (Subchapter F) Heading revised	†27191
101-35 Redesignated as 101-37 and heading revised	†27191
101-35 Redesignated from 34 CFR 282 in part	†27190
Heading revised	†27191
101-35.2 Appendix B removed	†27191
101-35.203 (a)(3) revised	58522
101-35.206 (b) amended	†27191
101-35.209 Amended	†27191
101-35.210 Amended	†27191
101-35.301 Redesignated as 101-37.301; revised	†27192
101-35.302 Redesignated as 101-37.302; revised	†27192
101-35.303 Redesignated as 101-37.303; (a) revised	†27191
101-35.307-1 Redesignated as 101-37.307-1; revised	†27192
101-35.308-9 (f) removed	58522
101-35.311 Added	58522
(b) corrected	†3709
101-35.1700—101-35.1706 (Subpart 101-35.17) redesignated from 101-32.1700—101-32.1706 (Subpart 101-32.17)	†27191
101-36 Redesignated as 101-33; new 101-36 redesignated from 101-32 in part; heading revised	†27191
101-36.003 Redesignated as 101-33.003; amended	†27191
101-36.203-3 (b) amended	†27191
101-36.400-2 Amended	†27191
101-36.404 (a) and (b) amended	†27191
101-36.407 (a) amended	†27191

NOTE: Symbol (†) refers to 1978 page numbers.

41 CFR—Continued

Chapter 101—Continued	42 (43†) FR Page
101-36.501—101-36.508 (101-36.5) redesignated from 34 CFR 281 in part	†27190
101-36.504 (a) introductory text amended	†27191
101-36.507 (a) introductory text amended	†27191
101-36.1105 Amended	†27191
101-36.1202 Amended	†27191
101-36.1613 Amended	†27191
101-36.4701-2 Amended	†27191
101-37 Redesignated from 101-35 and heading revised	†27191
101-37.203 Redesignated from 101-35.203; (c) amended	†27191
101-37.301 Redesignated from 101-35.307; revised	†27192
101-37.302 Redesignated from 101-35.302; revised	†27192
101-37.303 Redesignated from 101-35.303; (a) revised	†27192
101-37.307-1 Redesignated from 101-35.307-1; revised	†27192
101-38.001-1 Revised	36256
101-38.001-18 Added	36256
101-38.304-1 Revised	†24062
101-38.602 (a), (e), (f), and (n) revised; (o) and (p) added	†24062
101-38.701 (d) revised	†24062
101-38.901 Revised	36256
101-38.907 Introductory text revised	36256
101-38.1202-1 (b) revised	†24062
101-38.4903 Revised	†24062
101-39.502 Revised	†7207
101-39.503—101-39.503-7 Revised	†7207
101-39.601 (a) introductory text and (3) revised	36256
101-39.807 (b) introductory text revised	†24062
101-39.901 Revised	36257
101-39.4901 Revised	†7207
101-40.702-3 (d) revised	†24063
101-40.4902 Revised	†24063
101-41 Revised	36672
101-41.208-4 Heading corrected	41128
101-41.214-2 (b) corrected	41128
101-41.214-5 (c) corrected	41128
101-41.302-1 (q) corrected	41129
101-41.304-1 Corrected	41129
101-41.305 Heading corrected	41129
101-41.503 Corrected	41129

41 CFR—Continued

Chapter 101—Continued	42 (43†) FR Page
101-41.603-2 Corrected	41129
101-42.000 Revised	†26575
101-42.101 Introductory text and (a) revised	†26575
101-42.102 Revised	†26575
101-42.102-1 (a) revised	†26575
101-42.102-2 Revised	†26575
101-42.301-1 Revised	40847
101-42.301-2 Revised	40847
101-42.302-1 Revised	†26575
101-42.303-1 Revised	†26575
101-42.303-2 Revised	†26576
101-42.4800 (Subpart 42.48) added	40847
101-42.4801 Redesignated from 101-42.4901	40847
101-42.4802 Redesignated from 101-42.4902	40847
101-42.4900—101-42.4902 (Subpart 101-42.49) heading removed	40847
101-42.4900 Removed	40847
101-42.4901 Redesignated as 101-42.4801	40847
101-42.4902 Redesignated as 101-42.4802	40847
101-43.102 Revised	40847
101-43.102-1 Revised	†26576
101-43.302 (a)(2) revised	40848
(a) and (b) introductory texts and (a)(1) revised	†26576
101-43.303-1 (b) revised	†26576
101-43.305 Revised	†26576
101-43.311-1 Revised	40848
101-43.311-2 Revised	40848
101-43.312 (c) and (e) revised	40848
101-43.313-9 (f) revised	†26576
101-43.313-10 (e) revised	40848
(a) revised	†26577
101-43.313-12 (b) and introductory text of (c)(2) revised	†26577
101-43.315-2 (d) revised	40848
(d) revised	†26577
101-43.315-3 (a)(2) revised	40848
101-43.315-5 (a) introductory text and (b) revised	40849
101-43.319 Revised	40849, 56000
101-43.320 (h) (1) and (2) revised	40849
Revised	56000
101-43.321 Added	56002
101-43.400—101-43.403-4 (Subpart 101-43.4) removed	55813
101-43.402-6 (a) revised	40849

NOTE: Symbol (†) refers to 1978 page numbers.

41 CFR—Continued

Chapter 101—Continued	42 (43†) FR Page
101-43.503 Revised	56002
Revised	†26577
101-43.504 (a), (b) and, (c) revised	56002
101-43.508 Revised	56003
101-43.4700—101-43.4701 (Subpart 101-43.47) added	56003
101-43.4800 (Subpart 101-43.48) added	40849
101-43.4801 Redesignated from 101-43.4901 and (b)(2) revised; (d) table amended	40849
(c) revised; (d) table amended	†26578
101-43.4802 Redesignated from 101-43.4903	40850
Revised	†26578
101-43.4803 Redesignated from 101-43.4905 and revised	40850
101-43.4900—101-43.4902-2946 (Subpart 101-43.49) revised	40850
101-43.4901 Redesignated as 101-43.4801 and (b)(2) revised; (d) table amended	40849
101-43.4901-121 Revised	56003
101-43.4901-122 Amended	†26578
101-43.4902-1539-1 Revised	†26578
101-43.4902-2946 Revised	56003
101-43.4905 Redesignated as 101-43.4803 and revised	40850
101-44 Revised	56003
101-44.001-2 Removed	55813
101-44.001-6 Removed	55813
101-44.001-8 Removed	55813
101-44.001-16 Removed	55813
101-44.112 (a) revised	†26579
101-44.202 (c)(12) corrected	61043
101-44.306 Revised	40851
101-44.307 Revised	40851
101-44.321 (b), (c), and (d) revised	40851
101-44.600—101-44.601-6 (Subpart 101-44.6) removed	55813
101-44.601-2 Revised	40851
101-44.703 (b) revised	40851
101-44.801 Revised	40851
101-44.4701 (d) revised	†26579
101-44.4900—101-44.4902-18 (Subpart 101-44.49) revised	40851
101-44.4902 Removed	55813
101-44.4902-18 Removed	55813

41 CFR—Continued

Chapter 101—Continued	42 (43†) FR Page
101-45.001-6 Revised	56025
101-45.105-3 (b) revised	40852
101-45.303 (b) revised	40852
101-45.303-3 Revised	40852
101-45.304-2 (c)(3) revised	40853
101-45.304-3 (a) and (b) revised	40853
101-45.304-7 (b) revised	40853
101-45.304-8 Introductory text and (c) and (e) introductory texts, (c)(1), (c)(1)(i) and (2) through (8), (f), and (g) revised	40853
101-45.304-10 (b), (c), and (d) revised	40854
101-45.304-11 (a) (1) through (3) and (b)(2) revised	40854
101-45.308 Revised	40854
Removed	56025
101-45.309-1 (b) introductory text revised	†26579
101-45.309-8 (f)(4) revised	40854
101-45.309-11 (d) revised	40854
101-45.313-3 Revised	40854
101-45.315 Revised	40854
101-45.400—101-45.405-2 (Subpart 101-45.4) removed	55813
101-45.500—101-45.506 (Subpart 101-45.5) revised	56025
101-45.701 (b) revised	40854
(b) revised	†11820
101-45.702 Revised	†11821
101-45.703-1 Revised	40854
101-45.703-4 Revised	†11821
101-45.704 (a) revised	†11821
101-45.705 (b) revised	†11821
101-45.803 (b) revised	34881
101-45.4700—101-45.4701 (Subpart 101-45.47) added	56027
101-45.4800 (Subpart 101-45.48) added	40855
101-45.4801 Redesignated from 101-45.4910	40855
101-45.4802 Redesignated from 101-45.4912	40855
101-45.4803 Redesignated from 101-45.4913	40855
101-45.4804 Redesignated from 101-45.4914	40855
101-45.4805 Redesignated from 101-45.4915	40855
101-45.4806 Redesignated from 101-45.4919	40855
101-45.4807 Redesignated from 101-45.4925	40855

NOTE: Symbol (†) refers to 1978 page numbers.

41 CFR—Continued

42 (43†) FR Page

Chapter 101—Continued

101-45.4808 Redesignated from 101-45.4927 and revised........... 40855
Revised.. †26579
101-45.4809 Redesignated from 101-45.4926 and revised........... 40856
101-45.4900—101-45.4903-20 (Subpart 101-45.49) revised.. 40857
101-45.4910 Redesignated as 101-45.4801............................... 40855
101-45.4912 Redesignated as 101-45.4802............................... 40855
101-45.4913 Redesignated as 101-45.4803............................... 40855
101-45.4914 Redesignated as 101-45.4804............................... 40855
101-45.4915 Redesignated as 101-45.4805............................... 40855
101-45.4919 Redesignated as 101-45.4806............................... 40855
101-45.4925 Redesignated as 101-45.4807............................... 40855
101-45.4926 Redesignated as 101-45.4809 and revised........... 40856
101-45.4927 Redesignated as 101-45.4808 and revised........... 40855
101-46.202 (b) (1) and (2), and (c) revised................................ †26580
101-46.4800 (Subpart 101-46.48) added... 40858
101-46.4801 Redesignated from 101-46.4901 and revised........... 40858
101-46.4802 Redesignated from 101-46.4902 and revised........... 40858
101-46.4901—101-46.4902 (Subpart 46.49) removed......... 40858
101-46.4901 Redesignated as 101-46.4801 and revised........... 40858
101-46.4902 Redesignated as 101-46.4802 and revised........... 40858
101-47.201-1 (a) revised.............. 40698
101-47.201-3 (a) revised.............. 40698
101-47.203-1 Revised................... 40698
101-47.203-2 Revised................... 40698
101-47.203-7 (d) revised.............. 40698
101-47.301-1 (b) revised.............. 47205
(c) added.. 56123
101-47.301-4 Revised................... 47205
101-47.304-4 Introductory text, (a) introductory text, and (b) revised; (a)(7) removed............ 47205
101-47.308-2 (e) revised................ 46305
101-47.802 (a) revised................... 40698
101-47.4904 Revised...................... 40698

Note: Symbol (†) refers to 1978 page numbers.

41 CFR—Continued

42 (43†) FR Page

Chapter 101—Continued

101-47.4904-1 Amended............... 40698
101-48 Added................................ 55813
101-49 Added................................ 65171

1978-1979

(Regulations published from July 1, 1978 to June 30, 1979)

41 CFR

43 (44Δ) FR Page

Chapter 101

101-1.103 (b) revised.................. Δ30096
101-1—101-7 (Subchapter A)
Temporary reg. 12.................... 58818
Temporary reg. A-11................ Δ23223
Temporary reg. A-12................ Δ37929
Temporary reg. A-11................ Δ37930
101-7 Temporary reg. A-11......... Δ1378
101-11.410-8 (b) revised.............. 43461
101-11.500-101-11.510-3 (Subpart 101-11.5) Revised.. Δ15716
101-11.701 Heading revised......... 43461
101-11.701-1 Revised................... 43461
101-11.701-3 Revised................... 43461
101-11.701-4 Revised................... 43461
101-11.701-5 Revised................... 43461
101-11.701-6 Revised................... 43461
101-11.701-7—101-11.701-10 Removed.................................. 43461
101-11.1304 Added....................... 33892
101-11.4909 Removed................... 43461
101-11.4917 Removed................... 43461
101-11.4918 Removed................... 43461
101-11.4931 Added....................... 33893
101-11.4932 Added....................... 33893
101-11—101-13 (Subchapter B)
Temporary reg. B-2 added...... Δ4950
Temporary reg. B-3.................. Δ18493
Temporary Reg. B-4 added...... Δ34499
101-14 Heading revised................ 30055
101-14.101 Revised....................... 30055
101-14.102-4 Revised.................... 30055
101-14.103-1 Revised.................... 30055
101-14.103-2 Revised.................... 30055
101-14.105 Revised....................... 30055
101-14.106 Revised....................... 30055
101-14.200 Revised....................... 30056
101-14.201 Revised....................... 30056
101-14.202 Revised....................... 30056
101-14.202-1 Added...................... 30056
101-14.202-2 Added...................... 30056
101-14.203 (a) and (c) revised...... 30056

Note: Symbol (Δ) refers to 1979 page numbers.

41 CFR—Continued

43 (44Δ) FR Page

Chapter 101—Continued

101-14.205 Revised ... 30056
101-15 Removed ... 30056
101-17.003-11 Revised ... 35484
101-17.003-27 Revised ... 35484
101-17.003-30 Added ... 35484
101-17.003-31 Added ... 35484
101-17.003-32 Added ... 35484
101-17.104-4 (b) removed ... Δ16394
101-17.304-1 Revised ... 34139
101-17.308 Added ... 34139
101-17.308-1 Added ... 34139
101-17.308-2 Added ... 34140
101-20.109-10 Revised ... Δ22465
101-20.301—101-20.310 Revised ... 29002
101-20.311—101-20.314 Revised ... 29003
101-20.315 Added ... 29003
101-25.109—101-25.109-2 Revised ... 29004
101-25.302-3 Revised ... Δ7955
101-25.4902-1473-1 Revised ... 40019
101-26.500 Revised ... 32767
101-26.501 (a) introductory text, (b) and (d)(2) revised ... 32767
101-26.501-1 Introductory text and (a) revised ... 32767
101-26.501-2 (a) revised ... 32767
101-26.501-3 Introductory text and (c) revised ... 32767
101-26.501-4 (a) and (b)(3) revised ... 32768
101-26.501-6 (b) revised; (c) added ... 32768
101-26.501-7 Revised ... 32768
101-26.507-1 Revised ... 32765
101-26.507-2 Revised ... 32765
101-26.507-3 Revised ... 32765
101-26.508-1 Revised ... 32765
101-26.508-2 (a), (b), and (d) revised ... 32765
101-26.508-3 Revised ... 32766
101-26.509-1 Revised ... 32766
101-26.509-2 (a) and (b) revised ... 32766
101-26.509-3 Revised ... 32766
101-26.704 Added ... 29005
101-26.4902-1424 Revised ... Δ24060
101-26.4902-1781 Revised ... 32768
101-30.101-17 Added ... 42257
101-30.101-18 Added ... 42257
101-30.305 Added ... 42257
101-30.400 Revised ... 42257

41 CFR—Continued

43 (44Δ) FR Page

Chapter 101—Continued

101-30.404 Revised ... 42257
101-30.404-1 Added ... 42257
101-25—101-34 (Subchapter E)
Temporary reg. E-52 ... 32768
Temporary reg. E-21 ... 33713
Temporary reg. E-53 ... 40019
Temporary reg. E-47 ... 45842
Temporary reg. E-59 ... Δ12032
Temporary reg. E-42 ... Δ18974
Temporary reg. E-47 ... Δ27393
101-36.301-1 (d) revised ... 50177
(b) and (d) revised ... Δ6100
101-36.301-18 Added ... 50177
101-36.301-19 Added ... 50177
101-36.302 (b) revised; (d) and (e) added ... 50177
101-36.303 Revised ... 50177
Revised ... Δ6100
101-36.303-1 Revised ... 50177
101-36.303-2 (a)(2) introductory text and (v) revised ... Δ6100
101-36.304 (b) revised ... 50177
101-36.306 Introductory text and (a) through (d) ... 50177
Introductory text revised ... Δ6100
101-36.307 (a) revised ... 50178
101-36.309 (b) revised ... 50178
101-36.309-3 Revised ... 50178
101-36.309-4 (a) revised ... 50178
101-36.309-5 Added ... 50178
101-36.310 Revised ... 50178
101-36.310-1 Added ... 50179
101-36.310-2 Added ... 50179
101-36.310-3 Added ... 50179
101-36.1300 Revised ... 34141
101-36.1301 Revised ... 34141
101-36.1302 Revised ... 34141
101-36.1302-1 Added ... 34141
101-36.1302-2 Added ... 34141
101-36.1302-3 Added ... 34141
101-36.1303 Revised ... 34141
101-36.1303-1 Revised ... 34142
101-36.1304-8 Revised ... 34142
101-36.1304-9 Revised ... 34142
101-36.1304-10 Revised ... 34142
101-36.1304-11 Revised ... 34142
101-36.1304-12 Revised ... 34142
101-36.1304-13 Revised ... 34142
101-36.1304-14 Revised ... 34142
101-36.1304-15 Revised ... 34143
101-36.1304-16 Revised ... 34143
101-36.1304-17 Revised ... 34143
101-36.1304-18 Removed ... 34143
Added ... 55404

Note: Symbol (Δ) refers to 1979 page numbers.

41 CFR—Continued

43 (44Δ) FR Page

Chapter 101—Continued

101-36.1304-19 Removed............ 34143
Added.. 55404
101-36.1305-1 Revised................. 34143
101-36.1305-1a Removed............ 34144
101-36.1305.4 Added..................... 55404
101-36.1308 Added........................ 34144
101-36.1308-1 Added..................... 34144
101-36.1308-2 Added..................... 34144
101-36.1308-3 Added..................... 34144
101-36.1309 Added........................ 34144
101-36.1309-1 Added..................... 34144
101-36.1309-2 Added..................... 34144
101-36.1309-3 Added..................... 34145
101-36.1309-4 Added..................... 34145
101-36.1309-5 Added..................... 34145
101-36.4702 Introductory text revised....................................... 50180
Revised... Δ6100
101-36.4702-2 (a) revised........... 50180
101-36.4702-4 Added..................... 50180
101-36.4801 Revised.................. Δ16917
101-36.4802 Amended................ Δ16918
101-36.4901-120 Revised............. 50180
101-37.202 (a) (1), (2), (5), (6), (8), (9) and (11) and (b) revised; (a)(7) removed; (a)(12) added... 40228
101-38.602 (f) revised.................. 49794
(n) revised....................................... Δ874
101-38.1306 Added........................ 50180
101-38.1306-1 Added..................... 50181
101-38.1306-2 Added..................... 50181
101-38.1306-3 Added..................... 50182
101-38—101-41 (Subchapter G) Temporary reg. G-37............... 49538
Temporary reg. G-32 removed... 50180
Temporary reg. G-37 technical correction.................................. 51635
Temporary reg. G-38.................... 54636
Temporary reg. G-39.................... 54633
Temporary reg. G-40............... Δ13024
Temporary reg. G-37............... Δ23222
101-42.300 Revised.................. Δ28664
101-42.301 Revised.................. Δ28664
101-42.301-1 Revised............... Δ28664
101-42.301-2 Removed.............. Δ28664
101-42.302 Revised.................. Δ28664
101-42.302-1 Revised............... Δ28664
101-42.302-2 Revised............... Δ28665
101-42.302-3 Revised............... Δ28665
101-42.302-4 Revised............... Δ28665
101-42.303 Revised.................. Δ28665
101-42.303-1 Revised............... Δ28665

41 CFR—Continued

43 (44Δ) FR Page

Chapter 101—Continued

101-42.303-2 Revised................. Δ28665
101-42.4800 Revised.................. Δ28665
101-42.4801 Revised.................. Δ28665
101-42.4802 Removed................ Δ28666
101-43.311-1 Revised..................... 30056
101-43.315-5 (h) revised.......... Δ27392
101-43.4804 Added...................... Δ27393
101-44.108-4 Added.................... Δ27393
101-44.207 (a) (2), (3), (16) and (19) revised; (a)(14.1) added.... 38009
101-45.309-3 Revised................. Δ27393
101-47.202-2 (b)(6) revised........ Δ19406
101-49 (Subchapter H) Temporary reg. H-18 Expiration date extended........................... Δ8265

101-44.207 (a) (2), (3), (16) and (19) revised; (a)(14.1) added.... 38009
101-45.309-3 Revised................. Δ27393
101-47.202-2 (b)(6) revised........ Δ19406
101-49 (Subchapter H) Temporary reg. H-18 Expiration date extended........................... Δ8265

1979–1980

(Regulations published from July 1, 1979 through June 30, 1980)

41 CFR

44 (45*) FR Page

Chapter 101

101-7 Incorporation by reference approval.......................... *44090
101-1—101-7 (Subchapter A Appendix) Temporary reg. A-13 added.. 59192
Temporary reg. A-11, Supp. 9 added; effectiveness expires in part 12-31-80....................... *27437
Temporary reg. A-11, Supp. 9 corrected................................. *29294
Temporary reg. A-14 added...... *31314
Temporary reg. A-11 corrected................................ *37199, 37432
101-11.102-6 Revised.................... *5705
101-11-401 Revised....................... *5705
101-11.401-1—101-11.401-5 Removed.................................... *5705
101-11.402 Added.......................... *5705
101-11.403 Revised........................ *5705
101-11.403-1 Revised..................... *5705
101-11.403-2 Revised..................... *5705
101-11.403-3—101-11.403-4 Removed.................................... *5705

NOTE: Symbol (Δ) refers to 1979 page numbers.

NOTE: Symbol (*) refers to 1980 page numbers.

41 CFR—Continued

44 (45*) FR Page

Chapter 101—Continued

101-11.404 Revised........................*5705
101-11.404-1 Revised.................... *5705
(a)(1) corrected...........................*37433
101-11.404-2 Revised.................... *5706
101-11.404-3 Added.......................*5707
101-11.405—101-11.405-5 Added..*5707
101-11.406—101-11.406-9 Revised...................................... *5707
101-11.407—101-11.409-3 Revised...................................... *5709
101-11.409-4—101-11.410-2 Revised...................................... *5710
101-11.410-3—101-11.410-7 Revised...................................... *5711
101-11.410-8 Revised.................... *5712
101-11.412—101-11.412-2 Revised...................................... *5712
101-11.412-3 Revised..................... *5713
101-11.412-4 Removed..................*5712
101-11.1304 (b)(1) revised...........60740
101-11.4930-282 Added............... 60740
101-11—101-13 (Subchapter B Appendix) Temporary reg. B-5 added...................................... 56699
Temporary reg. B-3 amended.... *6104
101-17.001 Revised.....................*37200
101-17-002 Revised.................... *37200
101-17.003-33 Added..................*37203
101-17.003-34 Added..................*37203
101-17.003-35 Added..................*37203
101-17.003-36 Added..................*37203
101-17.101 (a), (b)(1) and (4) revised... *37203
101-17.101-1c Removed.............*37203
101-17.102-1 (b) revised.............*37203
101-17.4700—101-17.4702 (Subpart 101-17.47) Added..*37203
101-18.001 Revised.....................*37206
101-18.100 (d) revised; (f) and (g) removed............................. *37206
101-19.001 Revised.....................*37206
101-19.002 (a) revised; (b) removed.......................................*37206
101-19.100 (c)(1), (2), (f)(1) and (4) revised................................*37206
101-19.607 Revised........................39393
101-19.4902 (b) revised.................39393
101-19.4902-2974 Revised............39393
101-19.4902-2974A Added............39393
101-20.103 Revised..................... *22932

NOTE: Symbol (*) refers to 1980 page numbers.

41 CFR—Continued

44 (45*) FR Page

Chapter 101—Continued

101-20.105 Introductory text and (a) revised.........................*22932
101-20.500 Revised...........49453, 60995
101-20.501 Revised........................49453
101-20.502 Revised........................49454
101-20.503-1 Revised....................49454
101-20.503-3 Added...................... 49454
101-20.504-1 Revised........ 49454, 60995
101-20.504-2 Revised....................60995
101-20.504-3 Added...................... 60996
101-20.504-4 Added...................... 60996
101-20.504-5 Added...................... 60996
101-21.401 Revised...................... *22933
101-21.604 (h) added...................*22933
101-17—101-21 (Subchapter D Appendix) Temporary reg. D-65 added..53162
101-25.114 Added....................... *41947
101-25.501-3 (a) revised *41948
101-26.102-4 Revised................. *41947
101-26.107 Added..........................47935
(a) introductory text, (1) (iii) and (v), and (2) (ii) and (iii) revised...*17008
101-26.304 Revised......................*27764
101-26.401 (c) added...................*31992
101-26.401-4 (f) added.................55872
101-26.803-1 (a) introductory text revised............................. *31315
101-27.502 Introductory text and (a) revised...........................39393
101-27.503-2 Revised....................39394
101-27.505 (b) revised...................39394
101-28.308 Added........................ *17008
101-28.308-1 Added.....................*17008
101-28.308-2 Added.....................*17008
101-28.308-3 Added.....................*17008
101-28.308-4 Added.....................*17008
101-28.308-5 Added.....................*17009
101-28.308-6 Added.....................*17009
101-28.308-7 Added.....................*17009
101-29.302 Revised........................58910
101-29.303 Added..........................58910
101-25—101-34 (Subchapter E Appendix) Temporary reg. E-184 added.................................. 50340
Temporary reg. E-68 added........59530
Temporary reg. E-59 expiration date extended............................60740
Temporary reg. E-47, Supp. 6 added; Supp. 5 removed...........61963
Temporary reg. E-69 added........*9267
101-36.1304-20 Added................*43415
101-36.1304-21 Added................*43416
101-36.1304-22 Added................*43416
101-36.1304-23 Added................*43416

41 CFR—Continued

44 (45*) FR Page

Chapter 101—Continued

101-36.1305-1 (a), (c) introductory text, (1) and (3) through (7) revised; (b) and (d) amended.......... 50342
  (c)(3) through (7) redesignated as (c)(4) through (8) and revised; new (c)(3) added; (d) amended.......... *6789
101-36.1307-1 (b) revised.......... 50343
  (b) revised.......... *43417
101-35—101-37 (Subchapter F Appendix) Temporary reg. F-491 added.......... 50838
  Temporary reg. F-492 added.......... *62515
  Temporary reg. F-493 added.......... *3271
  Temporary reg. F-494 added.......... *15178
  Temporary reg. F-491 amended; expiration date extended.......... 19557
  Temporary reg. F-495 added.......... *31313
101-38—101-41 (Subchapter G Appendix) Temporary reg. G-144 added.......... 50341
  Temporary reg. G-38, Supp. 1 added.......... 61963
  Temporary reg. G-42 added.......... 74832
101-42.100 Added.......... *27764
101-42.101 (c) revised; (d) added.......... *27764
101-42.102 (d) removed.......... *27764
101-42.102-1 Revised.......... *27764
101-42.102-2 Revised.......... *27765
101-42.102-3 Revised.......... *27765
101-42.102-4 Added.......... *27765
101-42.301-1 Revised.......... *36399
101-42.4800—101-42.4802 (Subpart 101-42.48) Removed.......... *36399
101-42.4900—101-42.4901-291 (Subpart 101-42.49) Added.......... *36399
101-43.000 Revised.......... 55376
101-43.311-1 Revised.......... *28113
101-43.311-2 Revised.......... 55376
101-43.315-3 (b) revised.......... *28113
101-43.315-5 (a)(1) revised.......... *36077
101-43.320 (b) (2) (iv) and (h) revised.......... 55376
101-43.4801 (c) revised; (d) table amended.......... 55377
  (a) (1) and (d) revised; (e) and (f) added.......... *28113
  (a)(2) revised.......... *36077
101-43.4901-120-1 (d) revised.......... 55377
  (f) through (i) revised.......... *28117

41 CFR—Continued

44 (45*) FR Page

Chapter 101—Continued

101-44.205 (j)(4) introductory text revised.......... *36077
101-45.105-3 (b) revised.......... *38369
101-45.304-3 Revised.......... *38369
101-45.4901-114 Revised.......... *37693
101-45.4901-114E Revised.......... *37693
101-45.4901-126 Revised.......... *37694
101-46.301 Revised.......... 55377
101-46.400-1 Revised.......... 55378
101-47.301-5 Removed.......... *10793
101-47.4903 Removed.......... *10793
101-48.101-4 (b) revised.......... 42202
101-49 Added.......... 53750
101-42—101-49 (Subchapter H Appendix) Temporary reg. H-21 added.......... *7260

1980-1981

(Regulations published from July 1, 1980 through June 30, 1981)

41 CFR

45 (46†) FR Page

Chapter 101

101-2.102 (a) revised.......... 68653
101-7 Incorporation by reference approvals.......... †33980
101-1—101-7 (Subchapter A Appendix) Temporary reg. A-15 added.......... 44951
  Temporary reg. A-11 amended.......... 44953, 65147
  Temporary reg. A-12, Supp. 3 added.......... 48143
  Temporary reg. A-16 added.......... 68936
  Temporary reg. A-17 added.......... †1731
  Temporary reg. A-11 amended.......... †1733
  Temporary reg. A-15 removed.......... †1733
  Temporary reg. A-17 corrected.......... †9585
  Temporary reg. A-18 added.......... †7982
101-11.209 Revised.......... 74924
101-11.209-1 Revised.......... 74924
101-11.209-2 Revised.......... 74925
101-11.209-3 Revised.......... 74925
101-11.209-4 Revised.......... 74925
101-11.209-5 Added.......... 74925
101-11.209-6 Added.......... 74925
101-11—101-13 (Subchapter B Appendix) Temporary reg. 5 expiration date extended to 7-15-82.......... 51201

NOTE: Symbol (*) refers to 1980 page numbers.

NOTE: Symbol (†) refers to 1981 page numbers.

41 CFR—Continued

45 (46†) FR Page

Chapter 101—Continued

101-14 Revised....................†21602
101-19.603 See Temp. Reg. D-66....................67665
101-19.604 See Temp. Reg. D-66....................67665
101-20.109-1 Revised....................86493
101-20.109-3 Revised....................86494
101-20.109-11 Heading and (a) revised....................86494
101-20.109—12 Added....................86494
101-20.111-2 See Temp. Reg. D-65....................61304
101-20.111-2a See Temp. Reg. D-65....................61304
101-20.117-1 See Temp. Reg. D-65....................61304
101-20.117-2 See Temp. Reg. D-65....................61304
101-20.302 Revised....................†3524
101-20.303 Revised....................†3524
101-20.307 Revised....................†3524
101-20.308 Revised....................†3525
101-20.309 Revised....................†3525
101-20.700—101-20.709 (Subpart 101-20.7) Revised....................†3525
101-17—101-21 (Subchapter D Appendix) Temporary reg. D-65 expiration date extended....................61304
Temporary reg. D-66 added....................67665
Temporary reg. D-65 expiration date extended....................†3021
101-26.100-2 See Temp. Reg. E-73....................†31891
101-26.102-1 Revised....................55726
101-26.203 Added....................71565
101-26.206 Revised....................71565
101-26.301 Introductory text and and (b) revised....................55726
101-26.401-4 (f)(3) revised....................†17564
101-26.406-1 Revised....................†3024
101-26.406-5 Revised....................†3025
101-26.406-6 Added....................†3025
101-26.602-3 See Temp. Reg. E-71....................†31890
101-32.2 See Temp. Reg. E-47....................64177
101-25—101-34 (Subchapter E Appendix) Temporary reg. E-70 added....................46388
Temporary reg. E-71 added....................47149
Temporary reg. E-67 correctly designated....................49082
Temporary reg. E-47 expiration date extended to 9-30-81....................64177
Temporary reg. E-72 added....................58123

41 CFR—Continued

45 (46†) FR Page

Chapter 101—Continued

Temporary reg. E-71 revised....................†31890
Temporary reg. E-73 added....................†31891
101-35 See Temp. Reg. F-496....................81202
101-35.200—101-35.212 (Subpart 101-35.2) Revised....................†1213
101-35.205 (d) corrected....................†16102
101-35.206-1 (b)(6) corrected....................†16102
101-35.300—101-35.308 (Subpart 101-35.3) Added....................53150
101-36 See Temp. Reg. F-496....................81202
101-36.301-17 Revised....................†8513
101-36.400—101-36.408 (Subpart 101-36.4) Removed....................†1219
101-36.700—101-36.706 (Subpart 101-36.7) Revised....................53152
101-36.1304-20 Effective date confirmed....................47427, 47470
101-36.1304-21 Effective date confirmed....................47427, 47470
101-36.1304-22 Effective date confirmed....................47427, 47470
101-36.1304-23 Effective date confirmed....................47427, 47470
101-36.1304-x See Temp. Reg. F-497....................†3022
101-36.1307-1 (b) effective date confirmed....................47427, 47470
101-36.1308-x See Temp. Reg. F-497....................†3022
101-36.1500—101-36.1507 (Subpart 101-36.15) Removed....................†1219
101-36.4701-1 Revised....................†8513
101-36.4701-2 Revised....................†8513
101-36.4702 Introductory text and (b) revised....................†8513
101-37.000 Revised....................49263
101-37.102 Introductory text revised; (d) removed....................49263
101-37.104 (c) added....................49264
101-37.105-1 Revised....................49264
101-37.105-2 Revised....................49264
101-37.105-3 Added....................49264
101-37.105-4 Added....................49264
101-37.106 Revised....................49264
101-37.108 Removed....................49264
101-37.110 Revised....................49264
101-37.111 Revised....................49264
101-37.112 Revised....................49264
101-37.2 See Temp. Reg. F-498....................†27940
101-37.200 Revised....................49264
101-37.201 Introductory text revised....................49264
101-37.201-1 (a) introductory text, note and (2) revised....................49264
101-37.201-2 Revised....................49265
101-37.201-5 (b) revised....................49265

NOTE: Symbol (†) refers to 1981 page numbers.

41 CFR—Continued

45 (46†) FR Page

Chapter 101—Continued

101-37.202 (a)(2), (3), (4), (8), (11), and (12) removed; (a)(1), (5), (6), (9), (10), and (c) revised....49265
(b) revised....†7983
101-37.203 (e) and (g) revised; note removed....49265
(b) revised....†7983
101-37.204-2 (f) and (g) revised; (h) added....49265
101-37.301—101-37.311 (Subpart 101-37.3) Heading revised....49265
101-37.301 Revised....49265
101-37.301 (b) removed; (d) and (e) added....49266
101-37.307 Revised....49266
101-37.307-1 Revised....49266
101-37.307-2 Revised....49266
101-37.308 Revised....49266
101-37.308-1—101-37.308-9 Removed....49266
101-37.309-1 Revised....49266
101-37.309-2 Revised....49267
101-37.311 Revised....49267, †19472
101-37.311-1 Added....†19472
101-37.311-2—101-37.311-5 Added....†19473
101-37.312 Added....†7983
101-37.312-1 Added....†7983
101-37.312-2 Added....†7983
101-37.313 Added....†19474
101-37.601 Revised....73049
101-37.602 Revised....73049
101-37.603 (a), (b) and (d) revised; (e) removed....73049
101-37.604 Revised....73050
101-37.605 Revised....73050
101-37.700—101-37.704-3 (Subpart 101-37.7) Revised....†25618
101-35—101-37 (Subchapter F Appendix) Temporary reg. F-496 added....81202
Temporary reg. F-492 removed in part....†1197
Temporary reg. F-496 removed in part....†1197
Temporary reg. F-497 added....†3022
Temporary reg. F-491 and Supplement 1 removed....†19472
Temporary reg. F-498 added....†27940
101-38.1200 Revised....†3023
101-38.1201 Revised....†3023
101-38.1201-1 Revised....†3023

NOTE: Symbol (†) refers to 1981 page numbers.

41 CFR—Continued

45 (46†) FR Page

Chapter 101—Continued

101-38.1202 Revised....†3023
101-38.1202-1 Revised....†3024
101-38.1203 Revised....†3024
101-38.1307 Added....†18696
101-38.1307-1 Added....†18696
101-38.1307-2 Added....†18697
101-38.1307-3 Added....†18697
101-40.000 Revised....85752
101-40.101—101-40.113 (Subpart 101-40.1) Revised....85752
101-40.200—101-40.208 (Subpart 101-40.2) Revised....85755
101-40.300—101-40.306-4 (Subpart 101-40.3) Revised....85756
101-40.400—101-40.404-5 Subpart 101-40.4) Added....85759
101-40.403-2 (a)(6) corrected....†14894
101-40.4906-1 Revised....85762
101-40.4906-2 Revised....85762
101-40.4906-3 Revised....85762
101-40.4906-4 Revised....85762
101-40.4906-8 Added....85764
101-40.4906-9 Added....85764
101-41.203-2 See Temp. Reg. G-45....†23743
101-41.302-2 See Temp. Reg. G-44....58122
101-41.310-3 See Temp. Reg. G-44....58122
101-41.313 See Temp. Reg. G-44....58122
101-38—101-41 (Subchapter G Appendix) Temporary reg. G-41 correctly designated....49082
Temporary reg. G-43 added....56807
Temporary reg. G-44 added....58122
Temporary reg. G-40 expiration date extended to 2-28-83....†17564
Temporary reg. G-45 added....†23743
101-44.001-4 Revised....56808
101-44.001-14 Revised....56808
101-44.108-1 (a) introductory text and (b) revised....56808
101-44.108-2 (b) heading revised....56808
101-44.110 Revised....56808
101-44.118 (d) revised; (e) added....56808
101-44.200—101-44.208 (Subpart 101-44.2) Heading revised....56808
101-44.200 Revised....56809
101-44.204 (a)(2) revised....56809

41 CFR—Continued

45 (46†) FR Page

Chapter 101—Continued

101-44.207 Introductory text, (a) (17), (c) introductory text (12) and (13), (f)(1)(ii) and (iii), and (g) revised; (a) (27), (b) (2) (vii), and (c) (14) added 56809

101-44.208 (b) revised..................56810

NOTE: Symbol (†) refers to 1981 page numbers.

41 CFR—Continued

45 (46†) FR Page

Chapter 101—Continued

101-44.4901-123-1 (b) (1) (i) revised..56810

101-45.303 See Temp. Reg. H-23..77436

101-42—101-49 Subchapter H Appendix) Temporary reg. H-21 removed 73050

Temporary reg. H-22 added 73050

Temporary reg. H-23 added 77436

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